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Editor's Notes

TWO CONTRIBUTIONS in this issue brings to four the number of recent articles in this *Journal* on local government finance in Kenya and all are of interest alike to the student, the practical administrator and the academic.[1]

It is no coincidence that in so many developing countries financial review and fiscal reform take place during the period either just before or just after the attainment of independence. This is the time when major constitutional changes automatically entail a review of relationships between central and local bodies, and once a review is made reforms – sometimes long awaited – can be initiated.

It is a time also when some political parties vie with each other to encourage the demand, restrained perhaps under colonial rule, for the devolution of greater financial powers to local authorities, for relaxed controls and for less supervision. At the same time there are strong counter pressures directed towards a greater degree of centralization in financial as in other aspects of government. There are political campaigns for new and widespread capital development of every sort to be achieved in the shortest possible time; for example, particularly in communications, in the education and health services and in prestige buildings.

At the national level increased expenditure is essential to provide for the sudden expansion of such services and the training and provision of staff to man them in response to new and potent pressures. To meet all these demands a heavy increase in central revenue is needed.

Under colonial rule the policy determining local government finance can most briefly be described as steatopygic. The local authorities had to be as self-sufficient as possible, living on their own fat. For the most part their expenditure – recurrent and capital – had to be found mainly from the revenue they collected locally in the form of local rates, taxes or other such imposts and fixed percentages of central tax collected locally, or from other minor sources such as licences, fees or interest from hard-earned savings. A system of grants from the central government, whether in the form of deficiency grants or grants for

[1] *Local Government Development Finance*, by H. C. Seely. p, 191
Graduated Personal Tax in Kenya, by J. D. England, p. 204.
"A Graduated Personal Tax for Rural Local Government in Kenya," *J.L.A.O.*, Vol. III, No. 1, p. 45 and "Descriptions of local government finance in Kenya," in Vol. II, No. 3, p. 162 and Vol. II, No. 4, p. 233.

special purposes, was not well developed. Financial stringency was often the cause of slow development of services..

When political emancipation increases pressure from the public to modernize amenities at the local as well as at the central government level, the need to increase local revenue to meet increasing demand obviously follows. Search is made for new sources of revenue to meet both recurrent and capital expenditure; hence the need for a review of the financial and fiscal systems. The Kenya articles in this issue are of particular interest in describing the results of this type of review in Kenya. The first article[2] describes the various sources now available for loans (mostly) or grants for capital development; the second article[3] outlines measures for improving tax assessments and collection and means of discouraging tax evasion.

The establishment, as a method of assessment, of a graduated personal tax in place of a poll tax is a recognition in many developing countries in the world, and particularly in Africa, that post-war economic progress has brought about such differences in individual incomes that the traditional poll tax is no longer equitable, often pressing too heavily on the poor and too lightly on the rich, the poor having to pay more for public services proportionately to their wealth than the rich. To rectify this and at the same time to increase total revenue collections graduated personal taxes are now being introduced in many countries where flat rate poll taxes were previously the main source of local revenue.

In tax collection Kenya has shown great enterprise in establishing PAYE on a much wider basis than in other countries where accountancy standards in the public and private sectors are not highly developed and it will be interesting to learn, perhaps in a follow-up article next year, how effective this extensive PAYE scheme has been. It will also be interesting to know how effective the particular device described of penal sanctions for tax evasion has proved to be.

The article by Mr. Seely[4] gives an admirable exposition of the sources on which local authorities may draw for loans and grants for capital development. The success of these loans schemes depends upon the ability of the central government to find the capital and on the local authorities' ability to service the loans from their own local revenues. These in turn rely on a steadily improving economy, itself largely dependent on the ability of the primary producer to compete and sell his goods in the international markets of the world. The local authorities have therefore a great responsibility in collaboration with the central government to encourage scientific methods of increasing primary products. The central government has an equal responsibility in striving to find expanding export markets for this produce. This gives special point to the intricate talks and negotiotions in trade and aid which have been taking place this year in Geneva[5] and emphasize how important it is to local government in young countries that successful progress be made in these negotiations.

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[2] p.191
[3] p.204
[4] p.191
[5] The United Nations Conference on Trade and Development, Geneva, 1964.

Local Government Development Finance (Kenya)

by H. C. Seely

Background to local government development

Before examining the details of local government development finance, it will be as well to take a preliminary view of development generally in Kenya.

In all underdeveloped countries perhaps the most important purpose of capital development is to increase the economy generally so as to raise the standard of living, to increase the earning capacity of individuals and their ability to purchase consumer goods and to make a bigger contribution to the revenues of the country.

It is natural therefore that greatest attention has been placed on the development of natural resources, which in Kenya, unfortunately, are not plentiful, but which are economic in themselves or directly increase the economy of the country. Kenya's greatest natural assets are agriculture and animal husbandry, and the development of these has taken the largest share of the available development funds. Production has been increased over a large range of agricultural products, and standards of husbandry have risen. There is still much scope for improved and intensified agricultural and livestock production, coupled with the development of secondary light industries, for example, the canning industry to cope with the more perishable crops produced.

Perhaps the greatest difficulty which has had to be faced in planning development in Kenya is that of obtaining capital finance particularly for the public sector. Whilst, as the economy has expanded, it has been possible to raise a larger part of the capital finance required locally, this has had to be supplemented by borrowing from overseas sources. All underdeveloped countries suffer from a chronic shortage of capital for development, and Kenya is no exception. Consequently, development has had to be planned within the limits of the finance available. The raising of loans from the private sector has to some extent been affected by the political situation. Although statistics show that from 1957 to 1960 the ratio of public and private investment to the total remained fairly constant, in 1961 and 1962 there was a considerable reduction in the ratio of private investment. There are, however, encouraging signs that this position was to some extent restored in 1963 with the return of political stability.

Naturally, local authority capital development is affected by the general financial situation, and by any shortage of capital finance, particularly when, as in Kenya, the local authorities obtain most of their capital finance through government sources. The Local Government Loans Authority and the Central Housing Board both obtain most of their funds from the Kenya Government Development Fund. Despite the difficulty of obtaining capital finance for all the projects which local authorities have wished to undertake, a considerable programme of capital development has been carried out by local authorities in the last decade. In 1954 all local authorities spent about £2.5 million on various capital schemes; by 1961 the figure was £3.6 million annually and

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during the eight years 1954/1961 a total of £23.5 million approximately was spent.

Although local government development generally does not of itself directly increase the productive economy of the country it does encourage development particularly in the private sector. Many ancillary services such as water supplies, sewerage, housing and roads are required to attract private investment.

Many of the local authorities in the rural areas have, however, undertaken development schemes which have had a direct influence on the economy of the local authorities' own areas. Examples of these are various types of agricultural and livestock production.

The standard of the staff employed by local authorities has a marked influence on development. The municipal councils and certain county councils have in the past and still do employ the services of professionally and technically qualified officers, but others responsible for large areas and substantial annual budgets have not had the same advantage. The former are able to prepare, plan, execute and finance capital development. Those without the staff to advise them are often unable to appreciate or to estimate the recurrent costs which their capital schemes will generate and the consequent effects on their future annual budgets. Up to the end of 1963 the main source of revenue income of the African district councils in the rural areas was a poll rate on every adult male African over 18 years of age. This type of rate can only produce a higher yield within limits, and in some years drought, flooding and famine have had serious adverse effects on the rate of collections.

Devices to overcome constraints to development

In an attempt to overcome these difficulties some local authorities arranged to finance the recurrent costs of capital schemes by levying special rates on those benefiting directly from the schemes. The first stage was an exploration of the scheme and its benefits and the seeking of an undertaking, usually verbal, from the beneficiaries that they would meet the recurrent costs. Most of such schemes were accepted enthusiastically and the undertaking to pay was given. Once the scheme had been installed the willingness to pay quickly evaporated and the financial burden was thrown on to the council's general finances, sometimes with disastrous results. It is not surprizing therefore that the Ministry for Local Government has often refused to approve capital schemes, excellent on paper, because of the particular council's poor record of collecting general and special rates. In such districts development is bound to be restricted and hampered until ratepayers prove that they are willing to pay in full for the services provided.

A new fiscal structure[1] has been devised for local authorities and came into operation from the 1st January, 1964. No longer will councils receive grants from the Central Government, though they may receive certain grants from their Regional Assemblies, mainly to assist with education. A new tax known as the Graduated Personal Tax has been introduced to replace the former fixed poll rate, and at the same time the Central Government has given up the Personal Tax formerly payable by all individuals. It is hoped that by this new tax local authorities will be able to finance not only their recurrent services but a certain amount of much needed development. Its success will depend largely on the ability of the individual local authorities to collect the tax in full.

[1] See article on Graduated Personal Tax in Kenya by J. D. England in this issue, p. 204.

In planning their schemes of development those local authorities who cannot afford to employ their own specialist officers have been able and will continue to obtain the services, often free of charge, of government or regional technical officers, particularly for agricultural projects and rural water schemes.

Apart from minor capital schemes the cost of which can be met from the annual revenue budget, local authorities have found it necessary to raise loans for capital projects. This they are empowered to do with the consent of the Minister for Local Government. The security for all loans raised, which rank 'pari passu', is the rates and revenues of the local authority concerned and the law contains provision for appropriate action to be taken against a local authority which fails in the repayment of any loan raised. So far it has not proved necessary to invoke this provision as no local authority has defaulted.

Although the law in fact allows local authorities to borrow from any source, only the Nairobi City Council has raised loans by stock issues or local mortgages or bonds. They have therefore been restricted to raising loans from:—

(i) The Local Government Loans Authority.
(ii) The Central Housing Board.
(iii) African Land Development.
(iv) Internal Funds.
(v) Banks.

Nonetheless in the four years 1959-1962 local authorities (excluding Nairobi City Council) raised loans totalling £4 million to finance capital expenditure. In the same period the Nairobi City Council with its wide facilities raised a total of approximately £7.8 million.

That there is room for much more capital development by local authorities is undoubted. There are still many areas where local government services are below the average standards acceptable in Kenya. But the pace of development must be geared to the ability and willingness of the people to pay. If the economy of the country expands, as is hoped, the people will be in a better position generally to pay the amounts required by local authorities to finance the recurrent costs of development schemes. At the same time they must be educated so that they appreciate in full their financial responsibility to the community and will pay willingly the amounts due to local authorities.

Already it is known that the demands of local authorities in the near future for capital finance are likely to be considerable. The Municipality of Kisumu has estimated that it will need £1¼ million to provide services required by a textile factory to be constructed there. Nairobi City Council with its added area will need a considerable amount to enable it to extend and improve its services. The County Council of Kiambu following a survey of its area estimates that it will require approximately £2 million for water development. Overseas investors have shown themselves to be interested in setting up industries within Kenya such as canning factories, sugar refineries and textile mills. All these will tend to generate a demand for an expansion of local authorities' services and if the private investment is to be secured the demand must be met.

Nairobi City Council

Special mention should be made of the position of Nairobi, the largest and most important city in East Africa, with regard to borrowing facilities. Note has already been made of the limited sources of borrowing of local authorities. Because of its size and importance the City Council of Nairobi has been allowed the following additional borrowing facilities:—

(i) by stock issues – this facility was withdrawn in 1960 up to which time the Council had issued nine classes of stocks and had raised by this means £7.174 million;

(ii) by the issue of Local Mortgages to a maximum of £1 million – balance at 31.12.63: £533,620;

(iii) from external international sources e.g. the Commonwealth Development Corporation and the American Agency for International Development. Although these loans have been negotiated by the City Council the loans are made through the Kenya Government which is party to the loan agreement as guarantor of the City Council;

(iv) by a Contractor Finance Scheme – only one project has been financed so far by this method i.e. a scheme for the construction of a housing estate of 3,000 houses. Under this scheme the building contractor is paid by a bank on behalf of the Council against engineers' certificates, each payment being treated by the Council as an advance against the agreed loan. Repayment of the bank loan is guaranteed by the Kenya Government. The initial loan is for a relatively short period only and will subsequently be replaced by a long term loan from other sources.

The area of the City of Nairobi was increased in 1963 from 30 to 240 square miles and now includes large areas of agricultural land. The demand for capital development in the new area is considerable, particularly for water supplies, and the potential capital finance requirement of the City has increased accordingly. To find the capital finance which the City needs has never been easy and at the end of 1962 £1.268 million of capital expenditure remained unfinanced. The problem has now become even more difficult with the increased demand.

Sources of Capital Finance

Mention has already been made of the sources for which local authorities generally are permitted to raise loans for capital development and it will, it is thought, be of advantage to readers to examine these various sources in detail.

Local Government Loans Authority

Establishment and membership: The Local Government Loans Authority was established as a body corporate with perpetual succession and a common seal under section 3(1) of the Local Government Loans Act, 1953. The membership of the Authority, which was prescribed by the same Act, consisted in the main of government officers but the Minister for Local Government who was Chairman of the Authority did up to 1963 enjoy the services of three prominent citizens of Nairobi, two of whom were founder members, and all of whom gave unsparingly of their time and rendered valuable advice.

With the creation of Regional Assemblies under the new Constitution of Kenya the membership of the Authority has been altered and will in future consist of:–

(i) The Minister for Local Government as Chairman;
(ii) The Permanent Secretary for Local Government;
(iii) The Principal Local Government Inspector;
(iv) An Appointee of the Minister for Finance;
(v) A representative of each Regional Assembly;
(vi) A representative of the Nairobi Area;
(vii) Such other persons as the Minister appoints.

Administration: The Permanent Secretary to the Ministry is charged with the duty of carrying into effect the decisions of the Authority and for this purpose he has appointed a Senior Local Government Financial Officer as secretary, assisted by an executive officer of the Ministry. The Local Government Loans Authority reimburses the Government for the full time service of the executive officer and pays an agreed charge for the part time services of the secretary.

The authority meets only as and when the volume of work to be transacted justifies the calling of a meeting. On average this works out at three to four meetings annually.

Functions: The purpose of the Local Government Loans Act was "to facilitate the borrowing by local government authorities of money for capital development . . . and to establish a fund for that purpose".

Under the Act, the Authority may make loans to local authorities for such purposes as local authorities are authorized by law to borrow. These include the making of temporary loans to the Central Housing Board on such terms and conditions as may be directed by the Minister for Finance.

Although the law allows the Authority to make loans for any purpose for which a local authority is authorized to borrow, it has not except, in certain isolated cases, advanced loans for housing or agricultural projects since local authorities can approach the Central Housing Board and the Land Development Board (Non-Scheduled Areas) for such loans.

In April 1960 the Authority undertook a temporary loans scheme. The scheme provided for applications, approvals and issues to be dealt with very quickly, limited the period of any loan to a maximum of six months and the amount outstanding against any local authority to £50,000. All such temporary loans were to be the subject of loan sanctions issued by the Minister for Local Government in the same way as for any other loan raised by local authorities. Despite the fact that the existence of the scheme was well publicised, no applications for such loans were received for three years. One Application was received early in 1964 and others are anticipated.

The object of the scheme is to provide working capital for local authorities suffering temporary shortages of cash pending the collections of income. It is not intended to be used by local authorities as a means to cover serious financial incapacity and every application is examined in detail to ensure that only genuine cases are approved.

Accounts and finance: The Authority is required to keep such capital revenue and other accounts as the Minister for Finance may require, and the annual accounts and balance sheet are audited by the Controller and Auditor General, after which they are submitted to the Minister together with a report upon the administration of the affairs of the Authority. The report and accounts are subsequently laid by the Minister upon the table of the National Assembly.

The Local Government Loans Fund which was established under the Act in 1953 provides the Authority with funds to meet the demands of local authorities for loans. The Act details what monies may be paid into the fund, i.e.:-

(*a*) Monies voted by the Kenya Government for the purpose of loans to local authorities.

(*b*) Repayments made by local authorities.

(*c*) Any monies borrowed by the Authority under powers contained in the Act.

(*d*) Monies received on realization of any investment made by the Authority.

The Fund was opened with an initial endowment of £1.8 million granted by the Kenya Government, interest free. This was made partly in the form of loans already made by the Kenya Government, the rights and liabilities attaching to which were taken over by the Authority, and partly in cash payments made in the period 1953/56. This £1.8 million was subsequently reduced to £1.6 million with the transfer of certain loans, originally made to local authorities by the Kenya Government for housing purposes, to the Central Housing Board.

The Kenya Government has made loans to the Authority from its Development Fund, these loans being repayable on a half yearly annuity basis over a period of thirty years and bearing interest at the Development Fund rate prevailing at the time the loan is made to the Authority.

The Authority has power to borrow in other ways with the consent of the Minister for Finance. The Act makes particular reference to borrowing by the issue of stock and local bonds but these forms of borrowing have not been used.

The Authority was, however, from 1958 permitted to accept short term deposits from local authorities a limit of £10,000 being placed originally on the amount which any local authority could deposit. Many local authorities made application to deposit sums in excess of £10,000 and after consultation with the Kenya Treasury this limit was removed. The scheme has proved extremely popular with local authorities providing a profitable outlet for their temporary surplus funds. The benefit to the Authority is in the form of additional capital at lower cost than long term loans. Since the inception of the scheme £4.6 million has been deposited with the Authority and £3.7 million repaid. The figures emphasize the essentially temporary nature of the scheme.

Another source of finance is the annual surplus on Revenue Account which is 'capitalized' and thereby becomes available for lending to local authorities. This surplus arises from the excess of interest received over interest and administrative expenses paid and now exceeds £100,000 per annum.

The funds available to the Authority are used firstly in meeting any deposits due for repayment and the annual loan charges on loans made to the Authority from Development Funds. The balance then available is used for making loans to local authorities.

The following table summarises the aggregate capital transactions up to the end of 1963:–

	Amounts Received £ 000's		*Amounts Disbursed* £ 000's
Government grants (initial endowment) ...	1,622	Loans to Local authorities	8,967
Government loans	5,135	Repayments to government	350
Repayment by local authorities	1,439	Deposits repaid to l.a.s. ...	3,702
			13,019
Deposits by local authorities	4,631	Balance unexpended ...	733
Annual revenue surpluses ...	925		
	13,752		13,752

The distribution of loans made to the various classes of local authorities in Kenya at the end of 1962 was as follows:–

Class of Authority	%
Nairobi City Council	29.4
Municipal Councils	48.9
County and County District Councils	17.2
African District Councils	4.1
Townships	.4
	100.0

These figures clearly demonstrate a much higher rate of capital development in Nairobi and the major towns of Kenya mainly on water, sewerage, housing and health services.

Rates of interest: The rates of interest which the Authority charges on loans made is to a great extent determined by the rate which the Authority has to pay on loans which it raises from the Kenya Development Fund since these loans form the greater part of its finances. Any change therefore in the Development Fund rate results in a change in the Authority's lending rates. Since its inception the Authority has related its rates to:–

(*a*) loans for periods not exceeding ten years;

(*b*) loans for periods exceeding ten years.

The rates have been:–

	Up to 26/3/56	26/3/56 30/6/60	1/7/60 30/9/63	*from* 1/10/63
(*a*) Loans not exceeding 10 years ...	4½	5½	6½	5½
(*b*) Loans exceeding 10 years	4½	6	6½	6

On temporary loans the rate was originally fixed at 5 per cent. but was reduced to 4½ per cent. from 1st October, 1963.

In deciding the rates which it would be prepared to pay on monies deposited by local authorities the Authority had regard to the terms which local authorities could obtain from other organisations such as banks and the Cereals and Sugar Finance Corporation. The rates paid by the Authority since the scheme started are:–

	to 1/11/58	1/11/58 1/1/61	1/1/61 31/12/63	from 1/1/64
Deposits repayable on 1 months notice	4½	4	4	3½
Deposits repayable on 3 months notice	—	—	4½	4½
Deposits repayable on 6 months notice	5	4½	5	4½
Deposits repayable on 12 months notice	5½	5	5½	5

Allocation policy: There would be no need for any allocation policy if the Loan Authority's funds were sufficient to cover all the applications for loans, but because demand always exceeds supply, some general principles have had to be accepted as a basis for making allocations.

Essential economic projects such as water supplies and sewerage inevitably receive priority and the bulk of the available funds, but the Loans Authority has always recognised that if local authority development were concentrated entirely on such projects there would be a serious lack of balance. Therefore minor schemes of social welfare, the building of town halls and administrative offices, trading centres, markets and health services have been the subject of loan allocations from time to time, according to the Loans Authority's assessment of local needs.

Each year, when it has been apprised of its allocation from Development Funds and taking into account the excess of loan repayments by borrowers over its own repayments to Government, and the anticipated revenue surplus, the Authority makes provisional allocations to local authorities indicating which schemes it is prepared to support. The allocations are made after a detailed examination of each individual application for funds submitted by local authorities. Although at this stage the Authority does not regard the allocation of funds as a definite commitment it does endeavour to meet all these provisional commitments when later called upon to do so.

When a local authority has received a provisional allocation it is able to begin the detailed planning of the project and to apply to the Minister for the granting of a loan sanction. When loan sanction applications are received a detailed examination of each project is carried out by Financial Officers of the Ministry and by technical officers of other Ministries in order to ascertain whether it has been properly designed and planned and that it will not result in recurrent expenditure which is beyond the resources of the local authority concerned.

When this stage is completed the application is again submitted to the Authority, this time for final loan approval. Once approved, the Authority regards the loan as a commitment. Local Authorities are notified and asked to submit drawing programmes so that the Authority may arrange its own financial programme to ensure that funds are available as and when required to meet the loan requirements of local authorities.

This policy has been eminently successful both from the point of view of the Authority and local authorities, but difficulties were experienced in one year when the sum of money originally allocated to the Authority by the Development Committee had to be subsequently reduced. The problem on this occasion was met by making greater use of the considerable temporary funds available i.e. deposits from local authorities, than the Authority normally considers desirable.

Recovery in cases of default: The Act prescribes the action to be taken in respect of a local authority which defaults in payment of any amount owing to the Authority in respect of a loan made by it. Where an amount due to the Authority has not been paid within sixty days of the due date, the Minister for Local Government may impose, levy and collect a rate or tax, or any dues or cesses in the local authority's area. The Minister would have the same powers of imposing, levying and recovering as the local authority. From the proceeds the Minister would defray all his costs, charges and expenses, pay to the Loans Authority the sum due to it, and to the local authority any balance remaining.

These are, of course, powers of the last resort and so far it has not been necessary to use them. There have been few difficulties in collecting repayments, and these have been mostly delays in sending cheques, even though the half-yearly or yearly accounts are sent out early. The Authority decided to impose a penalty for late payments and this has been a sufficient deterrent.

The Central Housing Board

Establishment and Membership: The Central Housing Board was established as a body corporate with perpetual succession and a common seal under section 3(ii) of the Housing Act 1953, which provided that the members of the Board should be appointed by the Minister for Housing, there being no

restriction as to numbers. The Minister also had power to designate one of the members to be chairman and also to appoint a secretary to the Board.

As with the Loans Authority, the new Constitution of Kenya has affected the membership of the Board which now consists of:–

(i) A representative from each Regional Assembly.
(ii) A representative of the Nairobi Area.
(iii) Four civil servants viz.:–
  (*a*) Permanent Secretary, Ministry of Health and Housing–Chairman.
  (*b*) Chief Architect – Central Housing Board.
  (*c*) Town Planning Adviser.
  (*d*) Director of Medical Services.

Administration: The Board is empowered to employ such officers as it considers necessary and has appointed a secretary, an engineer and an architect. The last two officers provide technical advice and prepare plans of housing schemes for local authorities for which only a nominal charge is made. In addition, certain government officers are seconded to the Board for duty for which the Board reimburses the government. They include a draftsman and an accounts officer.

The Board meets only as and when the volume of work justifies the calling of a meeting. On average this works out at three to four times annually.

Functions: The purpose of the Housing Act was to provide for loans and grants of public monies for the construction of dwellings for certain classes of the population and to establish a Housing Fund and the Central Housing Board.

The powers of the Board are rather wider than those of the Loans Authority which is restricted to making loans to local authorities, and the Board may :–

(i) grant money to a local authority in addition to lending;
(ii) make loans to a company, society or individual person;
(iii) construct dwellings, carry out approved schemes, and provide services for any such schemes;
(iv) acquire land and building estates or any interest therein;
(v) maintain any land, building, estate or any interest therein.

The Board does manage and maintain a housing scheme in the Thika municipality area, but generally the main function of the Board is to make loans to local authorities for housing purposes.

Accounts and Finance: The Board is required to keep such capital, revenue and other accounts as the Minister for Housing may require, and the accounts are audited by the Controller and Auditor General. After audit the accounts are submitted to the Minister, together with a report on the administration of the Board for the year to which the accounts relate. The report and accounts are subsequently laid by the Minister on the table of the National Assembly.

The sources of the Board's finance are specified in the Act and are very similar to those of the Local Government Loans Authority. The main differences relate to the borrowing of money, for while the Board has a general power to borrow with the consent of the Minister for Housing, the Loans Authority has power to borrow by specified means, e.g. stock issues with the consent of the Minister for Finance.

The Housing Fund commenced with an initial endowment of £400,000 which was increased by £207,000 in 1955 by the transfer of certain African housing loans from the Loans Authority.

Most of the Board's funds come from loans from the Kenya Government Development Fund, and carry interest at the Development Fund rate in force

at the time the loan is made. These loans are repaid by equal half yearly instalments of principal and interest over a period of 40 years.

As with the Loans Authority, the annual surplus on revenue account is capitalized and becomes available for lending. The Housing Fund finances only one aspect of local authority development, i.e. housing, and so is considerably smaller than the Fund operated by the Loans Authority. Because of its higher administrative costs and its smaller initial interest free endowment the aggregate revenue surpluses accumulated to the end of 1962 amounted to only £236,000 compared with the Loans Authority's £925,000 over the same period.

The aggregate capital transactions of the Board to the end of 1963 were as follows:–

	Amounts Received £ 000's		*Amounts Disbursed* £ 000's
Initial endowment	607	Loans made	4,470
Government Loans	3,696	Repayments to Government	347
Repayments by local authorities	3,511		4,817
Annual revenue surpluses ...	236	Balance unexpended ...	233
	5,050		5,050

Rates of Interest: The Act permits the Board to prescribe the rate of interest to be charged on the loans which it makes. The policy adopted has been to make loans available as cheaply as possible, and the rate charged has varied from ¼ to ½ per cent. in excess of the rate which the Board itself has to pay on the money it borrows. A margin of ¼ per cent. does not produce sufficient income to cover the Board's administrative costs but the balance is made up by the interest it receives on loans made from its intrerest free endowment. The present rate at which the Board borrows is 6 per cent. and its lending rate 6¼ per cent.

Policy: This Board has not found it necessary to adopt a policy similar to that of the Loans Authority in the allocation of its available funds because its functions are more specialised. Applications submitted by local authorities are considered as and when received, and each application is subjected to a detailed scrutiny by the Board's technical officers except where the design and planning has been undertaken by these officers on behalf of the Local Authority.

Up to the coming into force of the new constitution of Kenya, local authorities before borrowing from the Board were required to obtain the sanction of the Minister for Local Government. Sanction to the raising of such loans now has to be obtained from the Assembly of the Region in which the local authority is situated.

Recovery in cases of default: The powers contained in the Housing Act are similar to those applied to loans made by the Local Government Loans Authority. They have not yet had to be used.

The Land Development Board (Non Scheduled Areas)

This statutory board, which is more generally referred to in Kenya as ALDEV was established under the Agriculture Act of 1955. Its functions briefly were to advise the Minister on agricultural planning in the non-scheduled (African) areas, and to make loans and grants of money for agricultural purposes.

Funds were made available annually in the Government Development Estimates to meet the cost of schemes recommended by the Board, and much

of the money made available was for loans and grants to finance schemes of agricultural development submitted by African District Councils (now County Councils). Often the finance was provided on a £ for £ basis, that is, a 50 per cent. grant by the Board matched by a 50 per cent. contribution by the local authority. The local authority's contribution was also provided by the Board in the form of a loan repayable over an agreed period varying with the type of project.

The loan finance made available was channelled through the Local Government Loans Authority which acted as the Board's agent. The rate of interest was the prevailing Development Committee rate irrespective of the period of the loan.

From its establishment in 1955, up to 1963, loans totalling £560,000 were made to African local authorities, and a further £350,000 was paid by way of grants to further agricultural development schemes, particularly water schemes.

The Board ceased to exist in 1963 as a result of the new constitution of Kenya, which removed the distinction between the non-scheduled and scheduled areas. The Board's loan making functions have been transferred to the new Agricultural Finance Corporation and its powers relating to grants to the Central Agricultural Board.

Banks

Local Authorities may, with the consent of the Minister, raise loans for capital development from banks, but only a few such loans have been raised. Although adequate security for such loans is embodied in the law, some banks have been reluctant to lend money to local authorities unless the loan is guaranteed by the Government of Kenya. This cautious attitude is usually overcome after consultation with officers of the local authorities and sometimes the Ministry of Local Government. The Government is naturally unwilling to guarantee such loans except when exceptional circumstances justify it because the law provides ample security for all lenders to local authorities.

Internal Funds

Local authorities in Kenya are required by law to establish funds for the renewal of their capital assets and may also establish other funds:–

(i) Repairs funds for the maintenance of housing estates and other property;
(ii) Capital funds to meet capital expenditure;
(iii) Provident funds to provide retiring benefits to employees.

If such funds have accumulated in excess of immediate requirements, local authorities are permitted to invest any available surplus. Many have utilized such surpluses for financing schemes of capital development. This is done by making 'internal loans', the appropriate fund receiving annually an instalment of capital and interest in repayment of the loan made. These funds thereby provide a valuable source of finance for relatively short period loans, e.g., five to ten years.

This device of borrowing from internal funds has been adopted mainly by the more advanced local authorities, i.e., the municipalities and certain county councils, because with their professionally qualified and more experienced financial officers they are better able to manage their finances and understand the implications of internal borrowing. The less advanced authorities, however,

are unable to appreciate the advantages of such borrowing and the accounting entries required.

Grants

Another source of capital finance is the capital grants provided by the Government through various Ministries. Mention has already been made of the grants provided by ALDEV for agricultural and water schemes in the rural areas. In addition, capital grants have been made for:–

(i) Road construction;
(ii) The construction of health centres, dispensaries and other medical installations;
(iii) Community development projects;
(iv) Anti-malarial drainage.

The above are all money grants, and in addition local authorities have often received the free issue of expensive road plant and machinery, ambulances and vehicles, the last two items sometimes being contributed through U.N.I.C.E.F.

Contributions from Revenue

The ability of local authorities to finance capital development direct from revenue has naturally been limited to the amount of money which could be provided in the annual estimates. Many minor capital schemes have been financed in this way, and particularly schemes which would not have much prospect of attracting loans from one or other of the lending authorities. These contributions cannot ever be a major source of money for substantial development but they make a useful supplementry contribution.

Future prospects

It is never easy to look ahead and to forecast future trends with any degree of accuracy. Even annual budgets are subject to review as circumstances change and the further ahead one attempts to forecast the greater the possibility of the forecast proving to be wide of the mark. From past experience and current trends certain general conclusions can nonetheless be drawn as to the future capital development prospects of local authorities.

That the demand and need for further considerable development exist cannot be denied. New needs have arisen as a result of the reconstitution of local authorities, e.g., offices, council halls and staff houses for newly created authorities. Independence, which the country achieved in December 1963, has led to demands for improved and extended services and has added impetus to the desire to expand the economy of the country so that money will be forthcoming to finance the services which the people expect.

The pace of development will continue to be determined by two factors:–

(*a*) the amount of capital finance available;
(*b*) the ability of local authorities to meet from their annual revenues the recurrent cost arising from development.

Local authorities will, as in the past, obtain the major part of their capital finance by raising loans and the Local Government Loans Authority and the Central Housing Board will continue to play significant roles and provide the larger part of the loans required. They in turn will rely on the Government's Development Fund for supplies of capital which again will depend largely on the amount which the Government itself can raise from overseas sources. It is

this factor which it is most difficult to assess but the present indications are that the demands of local authorities are likely to continue to exceed the amount of capital which can be made available for many years to come. It may be possible to obtain loans to a greater extent than in the past from international lending agencies for local authority development but such loans often possess certain disadvantages arising from the conditions insisted on by the lending agency that render them unattractive and sometimes expensive.

The ability of local authorities to meet the annual recurrent costs arising from their development schemes will to a great extent depend on whether or not they can collect efficiently all revenues due to them, particularly the new graduated personal tax. Present indications with regard to the latter show that in the urban areas where a P.A.Y.E. system is operating collections are going well but that in the rural areas where assessment and collection is much more difficult, collections are lagging behind. It is too early to say therefore whether the tax as a whole will be successful and produce the revenue required by local authorities. That the money is there for collection is undoubted: it is now for the local authorities to prove themselves and collect it. If they do not then their development will be delayed.

Development by local authorities is not therefore likely to be rapid but a slow steady process in pace with the expansion of the country's economy.

Graduated Personal Tax in Kenya

by J. O. England

The background to the new fiscal structure

The provision of public services by local government authorities has developed apace in Kenya over the last decade. Those from the outside looking in tell us that "local authorities in Kenya are, in the main, sizeable units with considerable work to do and local government in Kenya can be described as well developed. County councils and the larger urban authorities employ expatriate professional staff with a high standard of efficiency. Their accounts are full and informative, the authorities' sense of responsibility developed, and their independence appreciable".[1]

The extent to which the finance for these services was found from purely local sources was not very great. Suffering from the handicap of perhaps the crudest forms of taxation – the poll tax – supplemented in some areas by cesses on crops it is not surprising that the rural local authorities, then called African district councils, which covered by far the greater part of the country had to look to the Government to provide considerable subventions in one form or another to cope with recurrent budgets which provided for such popular services as primary education, environmental and remedial health services, and a considerable mileage of minor roads.

In recent years the urban local authorities, which made no contribution to the costs of the education service but provided most of the other essentials for the modern urban dweller, found that they too were severely restricted in their revenue potential – from property (site value) rates – because of what is hoped will be only a temporary stagnation in economic development and a standstill in property transactions.

In the areas of European settlement there were county councils which raised limited revenues from the scattered farming community, mainly by land (area) rating but they provided only local services of a very minor character. However, they played a significant part in maintaining and, when funds were available, constructing secondary and trunk roads. The funds for this work originated from vehicle and drivers' licences and a consumption tax on petrol collected initially by the central government but channelled through the Kenya Road Authority. This is an ad-hoc body having professional, technical, and inspecting staff, but no operation staff. The county councils and to a lesser degree the African district councils, together with the central government works organisation, executed the road works on an agency basis.

The reader might reasonably enquire why the local authorities' revenue structure, in the rural areas, was based on so crude a device as the flat poll tax. The answer is two-fold. In the areas of the African district councils there was, until very recently, no system of land tenure which lent itself either to demarcation or to a system of valuation upon which rating could be based. Secondly there was the persistent refusal of the Central Treasury, no doubt guarding its own revenues, to permit the introduction of a graduated form of the poll tax for local requirements.

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[1]Report of the Fiscal Commission, Kenya – January 1963, para. 157.

This then was the background against which Constitutional Conferences together with Boundary, Economy, and Fiscal Commissioners, began to reshape our structure both physically and fiscally.

The African district councils and the former county councils were all reconstituted as new county councils, with few retaining their former shape. The capital city, Nairobi, was considerably extended and the few small areas not previously included were duly brought into the local authority network. Round the conference tables responsibilities were assigned to the centre and the regions and, on the assumption that further delegation to the local level would take place, the Fiscal Commission recommended a distribution of the available revenue devices between the centre, the regions, and the local authorities.

The new structure

In their report[2], the Fiscal Commissioners depicted the 'pre-independence' budgets of the central government and the local authorities in separate and in combined form, clearly showing the dependence of the latter upon government grants-in-aid. Local authorities were always expected to produce balanced budgets after crediting their known grants. Their aggregate expenditure was £9½m. which was met as to £2½m. from grants-in-aid, £3½m. from fees and licences, and the balance of £3½m. from a combination of property rates, land rates, poll taxes, and cesses on crops, though these proportions varied substantially as between one class of local authority and another.

Turning to the 'post-independence' situation and taking into account both the agreed and the assumed distribution of functions between the three tiers the Fiscal Commission recommended the outright vesting of, or a prescribed manner for sharing, each existing revenue device.[3] It is not proposed to divert the reader's attention from the main theme of this article by giving a complete catalogue of the financial responsibilities and revenue rights assigned to each tier but for practical purposes it can be said that now that the constitution is fact and not surmise the ultimate destination of the revenues and the ultimate liability for the costs of services conforms very closely to the recommended pattern.

The end result as far as local authorities were concerned, again dealing in aggregate terms, was to increase their outgoings (at this pre-independence level) by something over £2½m. This extra burden arises from their having to assume the full financial responsibility for primary education and local health services. Their direct revenue potential is initially increased by a similar sum in the form of the Graduated Personal Tax.

This transfer of additional expenditure, coupled with the vesting of matching revenues is not all the story, however. Recognising that the constitution then being drafted included the principle of transferring the responsibility for local government to the new regional assemblies, the Fiscal Commission made sure that the transfer would be fully effective. They did this by recommending the complete abolition of all the central government grants previously paid, thus effectively shifting the financial burden of the grants (£2½m.) to the regions though without attempting to indicate what form any new grants from the regions to local authorities should take. This simple move gives the regional authorities much more than an indirect interest in the degree of success with which the local authorities exploit their new taxing powers.

[2] Report of the Fiscal Commission, Kenya – 1963, paras. 15-17, tables 1 and 2.

[3] Report of the Fiscal Commission Kenya, 1963, Chapter 5.

In conferring the rights in this new tax upon the local authorities, the Fiscal Commission emphasised their view that each local authority should be free to draw up its own scale of graduated personal tax, each scale being subject to approval by the appropriate regional assembly. This important principle designed to ensure that taxing authorities were able to 'make the most of their revenue resources commensurate with their needs' caused no little anxiety to the working party subsequently appointed to report on the tax proposals and draft the tax legislation and for better or worse it was ultimately agreed, after consultation with the regional authorities, that for the first year of operation a single scale should be adopted by all taxing authorities.

The planning stage

That popular medium for getting down to detail "the Working Party", now comes on stage. With apparently simple terms of reference "to provide an outline of the new graduated personal tax legislation" and a statute already on the book for a similar tax which the central government had been collecting for years, the observers might perhaps have felt justified in expecting a committee composed of administrators, tax collectors, local government financial officers and lawyers to make light work of the task and produce a bill, tailored to fit the new Kenya with a minimum of delay.

This was not to be because meetings of sub-committees, liaison meetings with local authority staff and regional assembly members, and intermediate references to the Cabinet, caused the planning stage to extend over a period of four months. It is difficult to assess in retrospect whether the concurrent commitments of the members of the working party on constitutional matters and on reconstitution of local authorities, while the country itself was passing through the stage of internal self-government to independence, assisted the deliberations by producing answers to some of the problems or hindered the proceedings with a shoal of red herrings. Nevertheless, the legislation eventually beat the calendar by a short head and with the exception of the North Eastern Region where special circumstances prevailed, each of the six regions and the Nairobi Area was equipped with similar but separate legal powers to start tax collection by January of this year. After the recent election of an assembly for the North Eastern Region a tax law for that region has also been enacted.

Faced with the reality of diminishing returns from collections of the two outgoing taxes the working party knew that one of its major tasks would be to recommend ways and means of reversing this trend. With 8½ million men, women, and children counted at the very recent census it was considered unrealistic that in the last full year of collection the existing tax machinery should bring into its net a mere 960,000 persons for the Government Personal Tax (which was levied on all the races) and only 600,000 perons for the African District Council Poll Tax (levied only on the indigenous population). There was also a glaring discrepancy between the 600,000 African District Council poll-tax payers and the 870,000 Africans in the Government personal tax returns indicating that many persons, living away from their tribal areas, were being able to ignore the efforts of their councils to collect rates from them. In other words, evasion must have been simple and widespread.

Firm measures to strengthen the collection machinery of the local authorities were called for and at a very early stage in its deliberations the working party agreed to recommend that the maximum use must be made of a system of deduction of tax at source in relation to employed persons. Familiar to most as

the P.A.Y.E. system, the question was: could this sophisticated collection machinery be suitably adapted to the needs of Kenya?

There were some formidable obstacles: illiteracy amongst employers as well as employed; payment of wages in kind as well as in cash; free housing; rental housing at sub-economic rents; and the possibility of employer resistance to the inevitable additional work. Perhaps the most serious problems to be overcome were those which cannot be peculiar to Kenya alone amongst developing countries. Government and commercial establishments are concentrated in Nairobi and the other main towns and most of them operate centralised payrolls for employees stationed all over the country. How then was the tax deducted at headquarters to reach the local authority to which it was clearly due? What was to be the method of dealing with the thousands of taxpayers who, following custom, went off to work and to live wherever work was to be found, leaving their wives and children to be provided with services in the area of their tribal home? How would it be best to deal with those who not only received income from employment in one place but also income from farming or business interests in the same or in a different place?

These and similar questions and the problems of recording data, evidence of payment or past payment, and of movement between local authorities of considerable numbers of workers and work seekers, were some of the practical issues examined from the collection aspect. But what of the assessment aspect? What yardstick could be used to assess the tax liability of a man who, without the complication of keeping books or records, runs a passenger bus, is a partner in a petrol station, grows several acres of cash crops, and also employs 'relatives' in these enterprises?

Convinced that the future would see a gradual but considerable expansion of the wage economy, in rural as well as urban areas, the working party determined to recommend a P.A.Y.E. system for compulsory use in all urban areas but, recognising the impracticability of its total application throughout the country, suggested that in rural areas the choice of employers who would be brought into the scheme should rest with the taxing authority, i.e., the county council. Thus a large employer having been selected to operate the system would not be able to 'contract out' but the local authority could avoid having to control and supervise a great many widely scattered small employers.

A feature of the rating and taxation systems in Kenya has been the addition, under the appropriate law, of a substantial penalty to rates and taxes not paid before a statutory 'penalty date'. The working party gave thought to this, having heard representations that the attachment of a penalty was perhaps an incentive to evasion rather than to early payment. Few people in the relevant income groups 'saved up' to pay their tax; they paid it if or when they had the money. There was perhaps evidence of heavier collections from wage-earners as the penalty date approached but in the agricultural and pastoral areas there was equal weight of evidence that payment of taxes was linked to the receipt of cash at maturity of crops or on the occasions of organized stock sales. It was therefore decided that the penalty date ought to be a 'moveable feast' at the discretion of individual taxing authorities.

The principles of the tax

To the ordinary taxpayer the new tax is so nearly like its predecessors that great care is being taken to emphasise the points at which it differs. Two taxes were formerly paid, or should have been paid by the indigenous

taxpayers, one of these accrued to the government and one to the African district council. The immigrant population in the towns and the counties paid the same personal tax to the government and, if they were also owners of property, a property rate as their contribution to local services. Thus, contributions to the cost of local services in any area were made by some but not all of the people residing in that area. Africans living outside the area of their tribal home should have paid the poll tax levied by their tribal authority but they paid nothing towards the cost of services in the town or county area in which they had chosen to live; similarly the immigrant races paid no contribution to the services provided by the African district council in whose area they chose to or were by circumstances required to reside.

The new graduated personal tax accruing wholly to local authorities is neither a tribal poll tax nor a property rate; it is a personal tax, based on incomes of persons, payable to the municipal or county council in whose area the taxpayer resides. With the introduction of this new tax the former government personal tax and the former African district council poll-tax are discontinued but property rating will continue and a new relationship will exist between the residents of a local authority area and their council. In the future all local taxing authorities will receive a contribution from *all* those residing within their areas.

The simple definition of the tax used at the beginning of the last paragraph is capable of analysis and might, with useful results, be expanded. First it is a graduated *personal* tax which is different from a graduated income tax. We propose to tax persons using income as a basis for assessment. The minimum tax is payable by everybody. It replaces the former poll-tax and only when income exceeds a stipulated sum is the tax graduated. Provision is made in the constitution and in the tax laws for limiting the maximum tax payable on any income but, subject to special classes being exempted in accordance with conventions and international laws and agreements and to remissions authorised on the grounds of poverty, tax will be paid by all adults, male or female, though married women are dealt with in a special way.

This emphasis on the 'personal' aspect of the tax is important in a country where substantial numbers of the populace have a very low cash income or who, unless they sell some of their agricultural or animal products, may have no measureable cash income at all. Are such people to pay no contribution to the cost of the services provided for them?

With the anacronistic system of payment in cash and in kind still prevailing in many areas for certain classes of employees it was essential, in order to secure an equitable distribution of the tax burden, that the definition of income should be wide enough to embrace these features. Similarly it was necessary because of varying customs involving family and other labour for dealing with seasonal tasks on the farms or in family businesses to recommend that assessments should be made on gross income without allowances for "costs of production".

It would be appropriate at this point to explain the deliberate departure from one of the main recommendations of the Fiscal Commission to which brief reference has already been made. Bearing in mind that each tier of the governmental structure would have defined responsibilities but aware of the difficulties being experienced in attaching precise financial values to those responsibilities the working party was apprehensive at the possibility of brand new local authorities acting partly in ignorance of their commitments and partly in honest endeavour to fulfil political ideals or election pledges, framing tax scales of quite inadequate revenue potential. Regional Assemblies and even

the new local authorities themselves were not in all cases functioning when local authorities entered the budget season. Regions had no data by which to estimate their own commitments accurately, for pre-independence constitutional talks were in progress and decisions affecting the responsibilities for certain services were still awaited.

Knowing that the financial relationship between local authorities and their regional assemblies would inevitably be one of grant-in-aid, at least in the early years of the new era, the working party considered it its duty to recommend that for a limited period a single standard scale should be used throughout the country, giving the following reasons as well as those already detailed.

The year 1964 was to be a year of transfer, of standstill budgets, of taking stock, and of collecting statistical data. Vital information about the income groups of taxpayers was lacking. Collection statistics for the past related to areas which had been substantially regrouped. Moreover, the long established practice of payment of tax to the government's local representative anywhere in the country made even the statistics available of very limited value.

The proposal to introduce a P.A.Y.E. system, though perhaps adventurous, was regarded as the potential key factor for successful collection in urban areas. Were we to take unjustifiable further risks by the added complication of a wide variety of tax scales to be applied by the central employer with the decentralised staff? The working party firmly said "No".

During the discussion of these complications it was suggested that the arguments that were being advanced for the standard scale for one year might lead to the permanent adoption of the principle, but this is not necessarily so. What is wanted during 1964 is a host of statistics. Taxpayers will be registered in suitable new records during this all important year. When the task is complete variations in tax scales will be unimportant. Movements will be traceable and precautions can be taken. Employers will gain experience of the mechanics of a system with a limited number of different tax deductions, and will be able to apply the principles to a greater number. Employees too will get used to the procedures and will report their own movements in order to be equipped with the necessary documents so as to avoid sanctions. The secret lies in accurate and comprehensive tax records which do not yet exist; the simplication of the collection side for a short period will permit maximum effort to be directed where it is most needed.

In considering the graduations for the standard scale the planners tried to follow the advice of the experts. They made sure that the scale contained sufficient but not too many graduations. They ensured that within the income ranges covered the tax was progressive. The minimum tax was fixed in the light of representations from various and diverse areas and a few smaller refinements were made, such as making the annual tax and income ranges divisible by 12. The result of their labours was the adoption of the following scale for 1964:

		£				£	sh.
on incomes not	exceeding	96	the tax payable is				48
	exceeding	96	but not exceeding			£144	72
	,,	144	,,	,,	,,	£204	108
	,,	204	,,	,,	,,	£312	156
	,,	312	,,	,,	,,	£420	240
	,,	420	,,	,,	,,	£516	360
	,,	516	,,	,,	,,	£600	480
on incomes	,,	600					600

This of course is the annual tax and income scale. For the benefit of employers deducting monthly the figures above are converted to monthly values.

The tax payable on income derived from employment is to be assessed on the income from employment for each month. This rule takes care of fluctuations in pay, increments during a tax year, or back pay as may arise on implementation of a pay award. In other words the tax is assessed as well as collected each month. Assessment merely consists of reference to the monthly tax scale at the time of preparing the pay roll, and the job is done. The possibility that a little tax may be lost on the occasion of payment of back pay due to the maximum monthly deduction being Shs. 50/-, was accepted in the interests of simplicity.

Income derived from employment is defined as "income derived from any employer". This automatically classifies the income received from any other source as income *not* derived from employment and these "other sources" include the incomes of the self employed who form quite a large group. Assessment of these incomes is on an annual basis, but for obvious reasons the assessment for any tax year is based on the income for the previous year with the usual saving that an estimate can be made for the current year for those who come within the taxing machinery for the first time.

The assessment will be carried out in towns by officers and in rural areas by assessment committees. If the taxpayer is literate and can complete a declaration of income then the work will be simplified but there are bound to be a considerable number of rural dwellers engaged in minor trading, cultivation of cash crops, cattle trading, or stock rearing, for whom assessment could be a lengthy business. County councils will appoint as many assessment committees as they consider necessary adequately to do the work, and allow reasonable time for the subsequent collection of the tax. Committees will be served by a clerk who will be a council official but they will otherwise be composed of non-officials with perhaps a council member as chairman for all committees in his own constituency.

In the areas where they work the committees will know and be known by the people. They will consider a taxpayer's case, knowing what occupation he follows, what land he has under crops, what stock he has and so on. Suggestions have been made by the central ministry to all taxing authorities concerning the construction and use of assessment codes with the strong caveat that the "unit values" allotted to various products should be examined by councils with advice from local experts on crops, animals, and trades. Taxing authorities will be entitled to call for information from co-operative or marketing organisations either generally or in particular cases.

From the information thus gained, the committee will estimate the aggregate income of the taxpayer and assess the tax payable. The taxpayer will have the right first to object to the assessment and later, if necessary, to appeal to a court.

This fairly lengthy description of the process should not be taken as an indication that any committee will have a task of unmanageable proportions. The volume of work will be narrowed considerably by the fact that the assessment committees, if carefully chosen, will 'know their men'. Neither the highest nor the lowest income groups will need any attention. If a taxpayer admits to an income in excess of £600, no further investigation is necessary and an 'on the spot committee' with intimate knowledge of the local community can quickly identify those who should pay the minimum.

It may be that this problem of assessment in rural areas is being overstated but certainly there are wide variations in conditions as between one area and another. An area of high rainfall might now be increasing its agricultural production as a result of earlier injections of development capital. In such an area the assessment committees may have considerable work to do whilst in the low potential and arid pastoral areas their work may be more of a token nature.

The final clause in our chosen definition of G.P.T. – "payable to the municipal or county council in whose area the taxpayer resides", can be taken as the final point of discussion in this review of principles. Bearing in mind that the point of collection in the P.A.Y.E. system is the town where the pay roll is prepared, we should perhaps re-state that the employees of government departments and other large organisations, public and commercial, serve in hundreds of outstations. There is also the problem of the migrant labour force which runs into thousands, where the worker very often leaves his dependents where he has his permanent home but, within the terms of the tax laws, he himself resides in the area where he works.

It was agreed after long negotiations between regional representatives and after several abortive attempts to produce a scientific formula that the tax paid by bona fide migrants should be shared equally between the importing authority, which collected the tax and provided some services for the workers, and the exporting authority where the dependants had also to be provided for. The numerous objections and examples of complications were eventually ignored in the interests of simplicity. The problem was to feed back some tax to the council which looked after the family because it was known that for many years neither the exporting nor the importing councils had received any contribution from the majority of this migrant labour force. The proposal ensured that in the future both councils would share in whatever tax was paid. On this optimistic note compromise was reached and the principle was embodied in the constitution at the pre-independence conference.

The collection machine at work

Although we have referred to the tax deduction scheme as a P.A.Y.E. scheme we must make it abundantly clear that the first venture of this kind in East Africa should not strictly be compared with the system of that name familiar in Britain. Our memories of code numbers, P.45's, P.13's and other documents, grow dim but we have adopted the principle, we hope without infringing any copyright laws, of requiring all employers in urban areas to deduct instalments of tax from the employed taxpayers' pay. With the tax so deducted, the employers are required to purchase G.P.T. stamps which like the U.K. National Health Insurance stamps must be affixed to a card. Stamps of the eight denominations corresponding to the monthly tax scale must be bought only from the municipal or county council in whose area the pay-roll is prepared and so long as the present system of monthly pay continues deductions will be made each month. Deductions will vary according to the scale if the monthly income varies between one income range and another. The tax due on income not derived from employment is collected by payment of the full annual tax against a receipt or by stamping a tax card on a voluntary basis.

Although the majority of employers will comply with the statutory provisions and stamp tax cards the law also permits any council to allow any employer to account for tax deductions otherwise than by purchasing stamps. It is

expected that this provision will be used sparingly for the time being but it is obviously appropriate that "scheduling" employers should be a feature of the scheme.

The tax cards remain the property of the council which issues them and are returnable to the council at the end of the year. In exchange for completed cards, the council will issue a tax clearance certificate. This is NOT a tax receipt for receipts will be issued only in exchange for cash payments by taxpayers not in the P.A.Y.E. scheme.

The clearance certificate is something more than a mere discharge for tax due. One of the few effective remedies against defaulters is expected to be the application of sanctions. Action for civil debts and execution of distress warrants are expensive procedures and not by any means the effective weapons of collection that they are in well developed countries. Sanctions are a different matter, and with the full authority of Parliament or the regional assemblies, defaulters or defaulters' dependants may be denied various personal services unless proof is produced – in the form of a tax clearance certificate – that the taxpayer is fulfilling his obligations. Licences to trade or permits for various actions, admission to schools and the granting of bursaries, provision of housing and similar personal services can be very effective points of control. Over the past few years when financial crises have threatened the closure of establishments experimental sanctions, particularly admission to schools, have had a most salutary effect.

The tax cards are the prime documents in the transmission procedure. At the end of the year, or on change of the area of employment, the employer records on the tax card the name of the council in whose area the employee deals. If applicable, he also states the name of the council in whose area the employee's family lives.

It is expected that the transmission of tax will be a considerable task in all areas where large organisations are to be found. In Nairobi there will certainly be more work to do than anywhere else but the City Treasurer with machine equipment may in the end find the task less onerous than some of his county colleagues who do not even have electricity to work machines. In any case whether a large volume of cards is processed by machinery or a smaller volume is processed manually the job will take some time to complete. The Kenya public are not notably swift in returning any official documents, and it may be several weeks into 1965 before final figures of tax to be transferred are available.

The estimated product and early returns

In estimating the yield of a tax scale with minimum and maximum points corresponding closely to those ultimately chosen for 1964 and basing their calculations on a million potential taxpayers the Fiscal Commission suggested that a figure of the order of £4 million could be expected to accrue. However, they decided to allow for the slowness of some local authorities in getting down to the tasks of assessment and collection, and chose a figure of £3,600,000 for the purpose of their recommendations. This compared with a combined product of £2,160,000 from the old government personal tax and the old African district council poll tax in the year 1962.

Subsequently, individual councils produced budgets with a gross tax product of £4.3 million which may seem to be somewhat optimistic. This may, unfortunately, be true in the case of some of the new county councils who as the Fiscal Commission accurately forecast have been slow off the mark. These

are the areas where direct contact with the taxpayer is through a staff of tax collectors operating at long distances from their council headquarters and where returns of collections cannot reach central recording points quickly. The number of returns so far received from these areas is few, and the data they give cannot be regarded as indicative of whether the machine is working smoothly or not. In the urban areas, however, where the P.A.Y.E. system is operating, Treasurers of local authorities though reluctant by nature to claim success on the result of two months' data are nevertheless encouraged by the early returns. These indicate that in the main, employers are carrying out their obligations and the yield is better than anticipated, showing a better distribution of taxpayers in the higher income groups than we dared hope for.

With so much depending on the successful introduction of this new tax, it would be tempting providence to say at this early date that the operation has been a success but the signs are encouraging in the towns and, given reasonable luck in the rural areas, we may soon be able to report success.

Acknowledgements

Although for want of our own title we have called the deduction scheme a P.A.Y.E. scheme, the perfectionists amongst our readers will perhaps consider that, with the use of stamps, we have really produced a hybrid. Let us hope that it will be a successful and productive hybrid. Perhaps we should offer an apology for picking the brains of the Inland Revenue from whom we borrowed the basic theory, and of the Ministry of National Insurance from whom we took the idea of adhesive stamps.

Tailpiece

The chairman of the working party, now happily retired at least from the cares of pilot-in-chief for the Kenya project, writes from the comfortable surroundings of classical studies revived to say that the English Parliament of six hundred years ago authorised the King to impose a graduated poll tax to raise funds for the war with France. The scale of this tax was:–

The poorest people, villeins, free labourers and the poorest monks	4d.
Small shopkeepers, craftsmen and small freeholders	6d.
Landholders – by acreages	6d., 1/- or 2/-
Servants or armed retainers, lesser merchants and Brethren of the Hospital of St. John	3d. to 4d.
Esquires and medium estate owners	6d. to 8d.
Knights bachelor or large merchants	£1
Barons, Baronets, richer Knights, Aldermen	£2
Earls, The Mayor of London	£4
Judges of the King's Bench	£5
Dukes and senior Bishops	£6 13s. 4d.

The estimated product of this tax was £27,000 from a population of just over 2 million. He warns us, however, with a typical *absit omen* that the levying of this tax was a part cause of the peasants' revolt in 1381!

The Principle of Unanimity in Panchayat Elections in the State of Andhra Pradesh, India

by K. Seshadri

A former Minister for Panchayat Raj some months ago announced that a reward of Rs. 5000/- would be offered to any Panchayat[1] that would elect all its members unanimously. Out of a total of 15,223 Grama Panchayats all over the State, 7144 Panchayats declared that their members were elected unanimously and are awaiting receipt of the promised amount.

What the Minister meant by "unanimity" has not been clarified. If in a Panchayat consisting of nine members, ten had formally filed their nominations and after an official scrutiny one nomination is rejected thus obviating an election will this be considered unanimous? Did he mean that unanimity should be achieved not only in electing the members of the Panchayat but also its President and Vice-President (Sarpanch and Upa Sarpanch as they are called in the region of Telangana in Andhra Pradesh)?

If the Panchayat members and even the President and Vice-President having been elected unanimously at the outset declare their eligibility for receiving the award and subsequently within a short period so quarrel among themselves that there arises a need for dissolution of the Panchayat and a consequent re-election, what will be the destination of the cash award – to the village Panchayat or the State coffers? This eventuality may be safely predicted in quite a number of villages.

Only the Andhra Pradesh Government has made this proposal; no other State has followed suit and the Central Ministry of Community Development is silent about this proposal. It gives rise to the questions:

(1) Why should the State Government be interested in circumventing an election and encouraging unanimity by offering such monetary incentives?

(2) Does the principle of striving for unanimity square with the democratic process? Does not democracy imply the existence of a juxtaposition of majority and minority struggling with each other vying for power?

(3) Is there, or, can there be, a new definition for a democratic process which is more natural and suitable to the developing nations where the usually accepted concept of westernized democracy may not fit in? At least among the primary institutions could there be a different interpretation of democracy more conducive to the developmental needs?

(4) Was not Panchayat Raj deemed as an experiment in "democratic decentralization" according to the Balwant Rai Mehta Report wherein the people are helped to develop a community spirit and a local leadership oriented towards the future so that planned development may blossom forth? If the normal political process of elections is sublimated how will the people ever have the opportunity to participate intelligently?

The answers to all these questions are not separate from and independent of each other. They are inter-connected and they overlap.

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[1] Rs. 2500 to any Panchayat with less than 3000 population.

These questions must be examined before a final evaluation of this experiment can be made. A survey was conducted by me of a block during the recent Panchayat elections when a random sampling was taken and the questions included those that had a bearing on the unanimity principle. Though it is a little difficult for an independent researcher to penetrate the timidity and suspicion in the countryside yet with a little patience and tact the village folk could be made to speak out their minds.

On the question as to why the State Government of Anhdra Pradesh launched upon this scheme of achieving unanimity the reason given out by the Government itself may be cited. The Panchayat elections have intensified the usual factional feuds in the villages. The number of murders[2] were noted to have increased after the institution of Panchayat Raj and the Andhra Pradesh Administrative Report of 1961 admits this fact. Whether this is an admission of the failure of the system to develop the community spirit among the people as visualized by the national leaders or this is deemed as inevitable birth pangs preceding the emergence of a new system, the ugly fact remains that many a village is rent in twain impeding the proper development, if not the peace and tranquility, of the village life itself. The bulk of the poorer sections of the village who would rather have nothing to do with these factions but who are helpless victims of this state of affairs have only to murmur "A plague o' both your houses!"[3]. Instead of the Panchayats fostering development they have tended to perpetuate and aggravate the feuds. Elections are fought with all the ferocity of tribal warfare, involving huge expenditure by the candidates and vitiating the whole spirit envisaged in the Five Year Plan. The Third Five Year Plan exhorts:

> "The primary object of the Panchayat Raj is to enable the people of each area to achieve intensive and continuous development in the interests of the entire population. The elected representatives should be encouraged to value the development of Panchayat Raj as offering new avenues of service to the people rather than opportunities for the exercise of authority."[4]

This is platitudinous like most of the statements in the Five Year Plan reports. It has to be realized that the panchayati system is after all a part of the nation's political life and as such is involved in the nation's political process. It is not just a humanitarian institution run by selfless sages who have no use for worldly goods. It is an institution that affords the local leadership an opportunity to exercise power with authority and acts as a stepping stone for the ambitious to help themselves climb up the pyramid of political power. It also gives an opportunity for the higher political leaders to vest their junior leadership in the districts and villages with positions of political power commensurate with their influence and importance. This need not sound viciously Machiavellian and there need be no shying away from the fact that politics is "who gets what, when and how."[5] A struggle for power is not inconsistent with a proper and beneficial exercise of power tempered by a sense of responsibility and accountability to the governed.

The "service" concept which is invoked in all writings on Panchayat Raj or community development is rather overdone and has to be rejected by a serious

[2] It is recorded that in the year 1963 there were 851 murder cases in the State of Andhra Pradesh, though not all were political.

[3] *Romeo and Juliet*, Act II, Sc. 1.

[4] The Third Five Year Plan, page 338.

[5] Laswell's *Politics: Who Gets What, When, How.*

political scientist however laudable and superior the concept may be over a mundane and vulgar "power" concept. Exhortatory statements may very often be a cover to transactions of different character. Therefore, instead of facing squarely the consequences of decentralizing power which the panchayati system aims at, how long and to what extent can political institutions be run on the principles of unanimity obtained by financial baits from the top, while at the same time honouring the principle of democracy?

This leads to the second question. The spirit of democracy should not be destroyed, decentralisation must be achieved and struggle must be avoided – this is "a consummation devoutly to be wished". If political struggle is accompanied by an outburst of violence, does it axiomatically follow that unanimity would assure peace? Cannot there be sporadic outbursts of violence even after unanimity in elections is reached and the whole structure of the village Panchayat fall, thus leading to an election which, it can be assumed, would be fought with redoubled violence and ferocity?

It should not be forgotten that panchayat institutions are constituted mainly with the intention of soliciting the peoples' voluntary participation in the development programmes of national planning and not to arbitrate village disputes as the old panchayats used to do. Though the name 'panchayat' is indigenous to India, the panchayats of the ancient days had nothing in common with the panchayats of today.[6] The concept of democracy as understood today even by the developing nations is not indigenous to them, but is Western in content. This is a fundamental fact that the developing nations have to concede though there need not be any value judgement regarding the quality of Western democracy. Does this Greek concept suit the traditions and *mores* of the people in the developing nations, or should there be a more appropriate formulation of democracy as applicable to these countries? How far can these Western institutions take root in a different soil? Did not the sudden planting of democratic institutions in many developing nations bring in certain frictions that finally led to the growth of dictatorships in many of them?[7] Though these questions are beyond the scope of this article what is relevant in this context is, should there be or not a suitable formulation of democracy applicable to the local bodies in India even if at a higher level it may be assumed that the experiment of Western type democracy is working successfully? This is the third question raised at the outset.

Democracy must mean a juxtaposition of a majority point of view and a minority point (or points) of view, and while the majority tries to better or at least maintain its superiority, the minority is aiming to assume the majority

[6] It may be appropriate here to digress into a description of the way panchayats worked in the ancient South Indian kingdom of the Chola dynasty. According to the inscription in a temple in Utteramerur, in Madras State, a combination of election and unanimity was sought. The people were asked to write down on a slip the names of five people who were the most respected and learned and fulfilled certain other qualifications like ownership of property and not holding membership in the old panchayat. All the people put their cards in a pot. Then in the temple in the presence of all the village folk, a child picked five cards. Those who were thus picked by lot among those whom the people had chosen constituted the panchayat. Since all the eligible candidates had equal chances of being picked up and since the lot was sanctioned by being taken by an innocent child "in the presence of God" there was sanctity attached to the panchayat coupled with the principle of consensus of the people. We do not know how it worked but it certainly did not fulfil functions of planned development. For full details about this one may refer to K. A. Nilakantha Sastri *Studies in Chola History and Admn.* Madras University publication, 1932.

[7] We have today basic democracy, guided democracy, tribal democracy and pastoral democracy, etc.

position. Thus unless a "totalitarian democracy" is contemplated, there cannot be unanimity except by a rare accident. Toleration towards a different opinion should form the *sine qua non* of democracy. If it does not exist such a system may be called by any other name, but not by democracy. This juxtaposition of at least two divergent points of view and toleration of all the points of view have to be the minimal requirements for the functioning of democracy even in the primary institutions, like the village panchayats. To think:

(1) that in a small social unit like a village, there cannot be such divergent opinions as to warrant their being classified as majority and minority;
(2) that since the developmental interests in the village are commonly shared by all the people and hence their differences can exist only with regard to higher political issues and not to those confined to the interests of the village, and;
(3) that political parties create these artificial differences in an otherwise idyllic rural atmosphere;

is to take an unrealistic stand ignoring the basic divergencies in human behaviour even in small units. Research has pointed to the existence of deep interdependence of various features of group life. Democratic process lies somewhere in between the ideas of a hard-boiled politician who thinks only in terms of power and those of a sympathetic idealist believing in the goodness of human beings.[8] Whatever the differences either personal, ideological, temperamental or opinionative, the basic plank on which a democratic functioning has to rest is tolerance towards divergence, which conduces to a resolution of the divergences without resort to violence. If consistently such differences lead to outbursts of violence necessitating interventions of the long arm of law and order the experiment of democracy will be in jeopardy. A government wedded to democracy will be determined to enforce the principle of intolerance against the intolerant.[8]

Democracy is none the worse because it is centralized nor will it become any the better because it is decentralized. Decentralization, whether democratic or otherwise is only a means even as centralization or integration is to implement policies and is to be conditioned by efficacy. When decentralization opens up opportunities for leaders at local levels to exercise power, enjoy prestige and manipulate finances, it is idle to pretend that the normal factious rivalries would permit the enjoyment of these privileges by any one group without there being resistance and challenge.

The main purpose of the Panchayat Raj institutions, it is hardly necessary to repeat, is to facilitate better implementation of the plans at various tiers, viz., the village, the block and the district so that the totality of these would blend with the national plan. Since it is very difficult to control the implementation of the plans at the base of the administrative pyramid, the lowest units of democratic administration are given the responsibility to carry out their plans. Proper co-ordination and control are achieved by the guidance given by the Block Development Officers and the national Extension Service Officers belonging to various fields like agriculture, animal husbandry, co-operation and rural industries. "The economic development of rural areas is still in its beginnings and large possibilities lie ahead. It is the object of the new institutions and relationships now being established to help each area to realize these possibilities to the utmost limits of its resources."[9] As is obvious to any superficial

[8] See also Kurt Lewin, *The Practicability of Democracy.*
[9] The Third Five Year Plan, p. 338.

observer of any Indian countryside this should appear commonplace exhortation. For realizing this end the Planning Commission has made a recommendation to the people as to how they should conduct themselves.

"From the limited experience gained so far, the following suggestions are offered for ensuring the effective and successful working of panchayat raj institutions:

(1) while developing institutions at the higher levels, the greatest stress should continue to be laid on the work of the gram sabhas and the panchayat at the village level. It is at the village level that the efforts of the people have to be mobilized and there is the largest scope for securing community action. Both on the part of the grama sabha[10] and the village panchayat, the approach of unanimity or near unanimity (sic!) should be encouraged, so that various activities are undertaken with the general consent and goodwill of the community."[11]

(2) "General consent and goodwill" – a pleasing terminology to the author of The Social Contract!

The seeds of the principle of unanimity in the village are already seen in the drafting of the Third Five Year Plan Report. Whether the Minister for Panchayat Raj in Andhra Pradesh consciously extended this principle from the above quoted passage or has arrived at it as a pragmatic measure to end raging fights in the villages, or the reason given for bringing about unanimity is only a façade, any serious political scientist would have no hesitation in declaring that such unanimity would be ephemeral, especially the moment development planning starts. To think that planning can be divorced from politics and that whatever one's politics may be all could make common cause for planning is once again another platitude that is indulged in rather liberally in this country.[12] Robert A. Dahl in a brilliant article on "The politics of planning" has argued how politics of planning is politics itself. " . . . The politics of planning is the politics of a total political order, and a work on the politics of planning is a treatise on politics."[13]

Shunning of political play in the implementation of plans, be they at the national or village level, and abhorrence of conflicts in the democratic process can both fit themselves well only in a totalitarian set-up which makes a mockery of balloting.

"A high regard for democracy depends upon the use of campaigns for educating the public and the handling of "resistances", which appear as selective inattention patterns among the voters."[14]

The principle of arriving at unanimity brings about a situation in the village when the public are denied the education that election campaigns provide them

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[10] Grama Sabha means and includes all the adult members of the village congregated to discuss the problem of the village. It is the village legislature and the Gram Panchayat with its five elected members is the village executive. In Andhra Pradesh there is no Grama Sabha.

[11] The Third Five Year Plan, p. 339.

[12] Mr. Santhanam, a prolific political writer has even suggested that the Indian Planning Commission should be made a statutory body free from political involvement. See 'Planning and politics in India' in 'Democratic Planning' – Asia Publishing House, London, 1961, p. 198-201.

[13] Robert A. Dahl"The politics of planning," *International Soc. Sciences Journal*, Vol. II, No. 3, 1959, p. 340.

[14] Arthur J. Brodbeck, "The Principles of Permanence and Change Electioneering and Psychotherapy compared" in Eugene Burddick and Arthur J. Brodbeck (editions) *American Voting Behaviour*," Free Press of Glencoe, Inc. 1959, p. 430.

and the "selective inattention" is not resisted.[15] It conduces to a situation when the people turn completely apathetic to what goes on in the political circles of their villages as they would tend to look upon the unanimity achieved as a manipulation over their heads and without their concern and participation. Unless he is drawn into the election fray and unless he becomes conscious that at least once in five years even the biggest men in the village will come down to his mud hut to solicit his vote, the common villager who is generally not interested will grow cynical of the whole process of democratic decentralization. In any village, the negotiations for unanimity will be carried on only by the few influential men without any reference to the bulk of the village population. Does a person who has been returned as a result of unanimity really become a representative of the people and can he be deemed to have been 'elected' unless the voters positively by the exercise of their individual votes express their collective desire to make him their representative? Even in a democracy, even in a village, it is not often that the man without means can aspire to positions of power and it is only when there is a threat of contest that the weaker sections mobilize themselves against the well-to-do.

In a factious village if unanimity were ever achieved it would obviously be based on an unholy wedlock between the leaders of both the factions who could then jointly exploit the villagers as they could not have done when they were at daggers drawn with each other.

In Andhra Pradesh villages there are certain communities each of which dominates over others in different places. This is true of other Indian villages too. As generally the rival factions are from the same community, the rest of the communities are in a position to bargain for adequate representations in the fruits of office. It should not be overlooked that community feelings in the villages do, unfortunately, play a very important role in the rural politics. If the dominating factions join hands would it not spell complete neglect of other communities which collectively may form a majority, but severally are small groups with negligible influence. The division among various communities is such that they do not all unite and pull their weight together.

A unanimous election in a particular village releases the leaders of that village from their campaign and enables them to abuse their energy and give attention in another village where a contest prevails. The differences in their allegiance in the other villages will certainly vitiate the smooth working of their own panchayats leading to an utter defeat of the purpose of unanimity. No village is an independent entity in itself. They are inter-linked economically, socially and politically. They have to come together in Block politics, in the Samithis and further up in the District politics in the Zilla Parishads. The political alliances, the checks and counter-checks among the local politicians, their loyalties to political leaders in higher echelons and their mutual inter-dependence are all so tangled that the idea of unanimity seems on the face of it rather naïve. If to this tangled web is added the role played by ministers at various levels, the talk of bringing about unanimity and identifying it with a consensus of the people will appear not so naïve nor altruistic. Because of the crucial position that the leadership in the panchayats occupies in shaping the legislative elections in the State, the ministers cannot be indifferent to the panchayat politics. But more often than not, unanimity has been possible only

[15] Even when unanimity is reached, the fact whether it would endure the full term is also dependent upon the political questions who gets what – in concrete terms "Who gets the contracts for the various works" and "how does one get favours?".

when the old leadership perpetuated itself or one from the group of the old leadership was given the presidentship of the panchayat. This could be brought about either by the offer of a 'withdrawal bribe' to contestants or an offer of a 'threat' or a combination of both. As an example a case may be mentioned where the old president side-stepped in 'the interest of peace and unanimity' only on condition that his nominee was chosen as president. After having thus ostensibly retired from politics he manoeuvred to get himself co-opted to the higher body, the Block Samithi.[16] Unanimity achieved through an active consensus is not undesirable if it does not lead to a deterioration of the political process in the long run. A constant war-like posture between factions in a village that leads to violence will also spell disaster especially due to its intensification under panchayat elections. Where the latter situation is not likely to occur, harping upon unanimity will lead to degeneration of human activity. There must be a consensus to maintain a society's harmony and cohesion but there must also be that amount of conflict which would lead the society to progress. This balance has to be achieved.

[16] All the presidents of the village panchayats are members of the Block unit called the Samithi. The Samithi can take six co-opted members who will be elected by the members of the Samithi. Two of them women, two from the scheduled castes and two from others are to be elected for co-option.

Developments in Primary Education in Northern Nigeria

by W. J. MILLER

Introduction

A NATION'S educational system can never be stronger than the primary educational facilities which it provides, for upon the very basic essentials in education and character training made available in the primary schools the whole system must be founded.

Nigeria in its rapid development has realised this and in Northern Nigeria in particular, where the needs for education are probably the greatest in the country, an extensive and far-reaching plan has been set in motion to improve the primary education system so that the foundation for secondary and post-secondary education may be firmly laid.

Vastly more educational facilities are essential at every level – primary, secondary, teacher training and university level – in order that a greatly increased output or highly skilled manpower can be produced to enable the North to supply its proportion of manpower to assist in the economic development not only of the Northern Region but of the Republic. None of this can be achieved without a radical change in the North's primary education field where the establishment of a firm foundation is vital to progress in the more advanced fields.[1]

According to 1963 census figures the present number of children attending primary schools is about 8 per cent. of the total number of children in the 6 to 13 year old age group. The Ashby Commission Report on Higher Education (1960) suggested that if the nation's economy was to be made secure by an adequate supply of properly trained manpower then for Northern Nigeria the following targets should be achieved by 1970:–

(i) 25 per cent. of the primary school age group to complete a full primary education;

(ii) 10 per cent. of all children completing primary education to proceed to secondary school;

(iii) 30 per cent. of those completing the School Certificate course to proceed for higher training including degree courses at university.

Commission to review the primary school system

By 1961 the need for a complete review of the primary school system had been realised and the Northern Nigeria Government appointed a one man commission in the person of Mr. H. Oldman, Chief Education Officer, York, to enquire into the efficiency of and the need for improvement in primary education, and the problem of administration and finance associated with the development of primary education. The commissioner's terms of reference were:–

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[1] See Appendix for Education Ladder.

(i) to advise on the form which the local contribution to the cost of primary education should take;
(ii) to advise whether there would be advantage in delegating control of primary education to local education authorities and on whether or not such local education authorities should have power of precept;
(iii) to advise on whether the English system of 'aided' and 'controlled' schools or some modification of either would have relevance to Northern Nigerian conditions;
(iv) to advise on any amendments to the Education Law and to the Grant-in-Aid Regulations that might be desirable;
(v) to advise on the future development of the primary schools' inspectorate and on the administrative machinery required by universal primary education.

Oldman, like Ashby, was under no misapprehension regarding what was necessary to produce an effective system of education for the North. He considered it pointless to base his enquiry on what the country could afford, for it was obvious to the Northern Government and to Oldman that, without external aid, any hope of beginning a programme of universal primary education with its infrastructure of teacher training and secondary education was fundamentally impossible. He therefore based the investigations of his commission on the conditions which he regarded as necessary to achieve universal primary education, relating to these conditions the staff and machinery which would be required to achieve the interim target and eventually the ultimate target. He recommended that a public system of primary education be developed in which a working partnership between Government on the one hand and the Native Authorities and the Voluntary Agencies on the other, would be established and in which the Ministry of Education with the responsibility vested in the Minister would give the lead in the promotion and efficiency of primary education. Such partnership implies not only a combining of knowledge on education and consultation among providers regarding development and progress, but also a sharing of the financial responsibility.

Partnership between central and local government in financing primary education

Oldman regarded a local contribution towards the cost of education as an absolute necessity and was concerned that the system of grant-in-aid operated by the Government left the providers in too much doubt regarding the proportion of the total bill for education which was required from the locality. In the preamble to the terms of reference the Government stressed that in the proposed partnership the costs should be met by a Government contribution and by a smaller local contribution, but as Oldman made quite clear, it was impossible for the Government or the locality to be aware of their financial responsibility in this partnership since no information was available as to the exact cost of primary education. If Government was to be able to make a policy statement regarding the amount of money it would allocate for primary education (and for other branches of education), and thus inform the localities what proportion of the bill would need to be found from local resources, then it was essential that an accurate costing investigation be set up. It was suggested that this costing exercise would provide information relating to a reasonable minimum total cost per pupil in a seven class primary school and that it should include the salaries of teachers, the annual cost of furniture, books, stationery and equipment, the annual cost of maintaining required to form an education

committee to carry out the day to day education work, such committee consisting of an adequate working majority of Native Authority representatives, Voluntary Agency representatives (in proportion to the number of schools they have provided), representatives of the teachers, and a small number of nominated members including, where possible, a representative of women's interests. The Education authority may, if it so wishes, delegate all of its functions to the Committee, except the power to raise revenue.

The responsibilities of an education authority are clearly set out in the Oldman report where it states that 'the substantial expansion of primary education cannot be brought about effectively unless there is in the Province an authority which can bring together officially all the present educational interests, can take the initiative in presenting to the Government an agreed plan of development, can establish an efficient local administration responsible for ensuring minimum standards of buildings, staffing and equipment in the schools, and can bring about united action on the reports presented by the Governments inspectorate'.

The provision of trained administrative staff for the education authorities

This description of the education authority's responsibilities and the recommendation that education authorities be set up at once raised a problem, namely the provision of suitably qualified officers who could be recruited to carry out this organisation and become the senior officers in the education administration of the areas of the education authority. Neither the Government nor the Native Authorities had any system for the production of such officers and it was therefore found necessary to institute a scheme, on the advice of Oldman, for the training of education administrators who would, in the first instance, become the administrative heads in the education departments of their native authorities and who would be responsible for making the necessary preparations before a Native authority applied to become an education authority.

One-year courses of study were therefore established by the Northern Nigeria Ministry of Education and training began in October 1962 at the Institute of Administration, Ahmadu Bello University, Zaria. In the first year the course served a dual purpose by providing facilities for the training of education administrators both for the Northern Nigeria Government and for the proposed education authorities. The aim of the course is to provide a sound basis of knowledge and technique which can be used by the students to enable them to qualify themselves as educational administrators in the field.

Care was taken to ensure that students of the right calibre were admitted, and to provide a staff who possessed a wide knowledge of the work to be undertaken. The Ministry of Education appointed to the course one of its senior officers who had detailed knowledge and long experience in education administration in Northern Nigeria. He worked in association with an officer with sound knowledge of education authority work, recruited on secondment through the Department of Technical Co-operation of the United Kingdom Government.

The syllabus covers a wide range of subjects relating to the education law, school administration, planning, finance, etc., and provides the student with a broad background upon which to base his work within education authorities. This is the only course of training of its kind on the continent of Africa and both the Government and the Native Authorities consider it to be of vital

importance since upon the success or failure of education authorities much of the educational development of Northern Nigeria depends.

The transfer of voluntary agency schools to education authorities

The establishment of an education authority entails the transfer of former voluntary agency schools to the education authority. Although Oldman was of the opinion that the model of the English 'aided' school was most likely to secure progress for the children of Northern Nigeria, he also recommended that the Scottish system of 'transferred' schools or a modification of this could be adopted in this respect, and this the Northern Government has done. The Education Law 1962 permits the transfer of schools from the voluntary agency to the education authority by mutual agreement, provided that this is carried out within one year of the establishment of the education authority. Should the voluntary agency refuse to offer a school for transfer within this period, it must (thereafter) conduct the school as a private institution without Government assistance.

The transfer of a school involves the handing over to the education authority of the school, the site thereof and all buildings and furniture used in connection with the school. The school then becomes the property of the education authority and is conducted by the authority. The Education Law permits the former proprietor of such a school the right to submit a list of staff of whom he approves and from which the education authority must make appointments to that school. In addition it also permits the former proprietor to inspect religious instruction at the school. Such instruction must be continued according to the custom of the school.

The most outstanding point in the Oldman Report was the recommendation that education authorities be established, and the majority of the recommendations relating to the revision of the 1956 Education Law are connected with this entirely new aspect of organisation in Northern Nigeria's education system. Apart from the fact that the 1962 Education Law gives the Minister of Education full responsibility for promoting primary education and for ensuring its progressive development through the providers of schools, it also makes provision for the establishment of the education authorities. The result is that the development of the primary system has been placed under much closer control with the expectation of much greater efficiency. Although there is much stricter control the system of education authorities allows much greater initiative at the local level and ultimately there will be much greater freedom in the management of primary educational affairs.

The separation of administrative and inspectorate functions within education authorities

This striving for greater expansion in the shortest possible time in order to meet the interim target has the obvious danger that quality will be sacrificed for quantity – a fatal blow to the newly born system. Prior to the Oldman Report, the standards in primary schools were maintained by provincial education officers working in the provinces, visiting schools to inspect and advise whenever their administrative duties permitted. In addition, the native authorities and the voluntary agencies employed a number of visiting teachers whose duty it was to tour the primary schools and help teachers to maintain standards by demonstrating new methods, etc. Unfortunately these teachers eventually became 'unofficial' inspectors and the teaching aspect of their work was rarely, if ever, carried out.

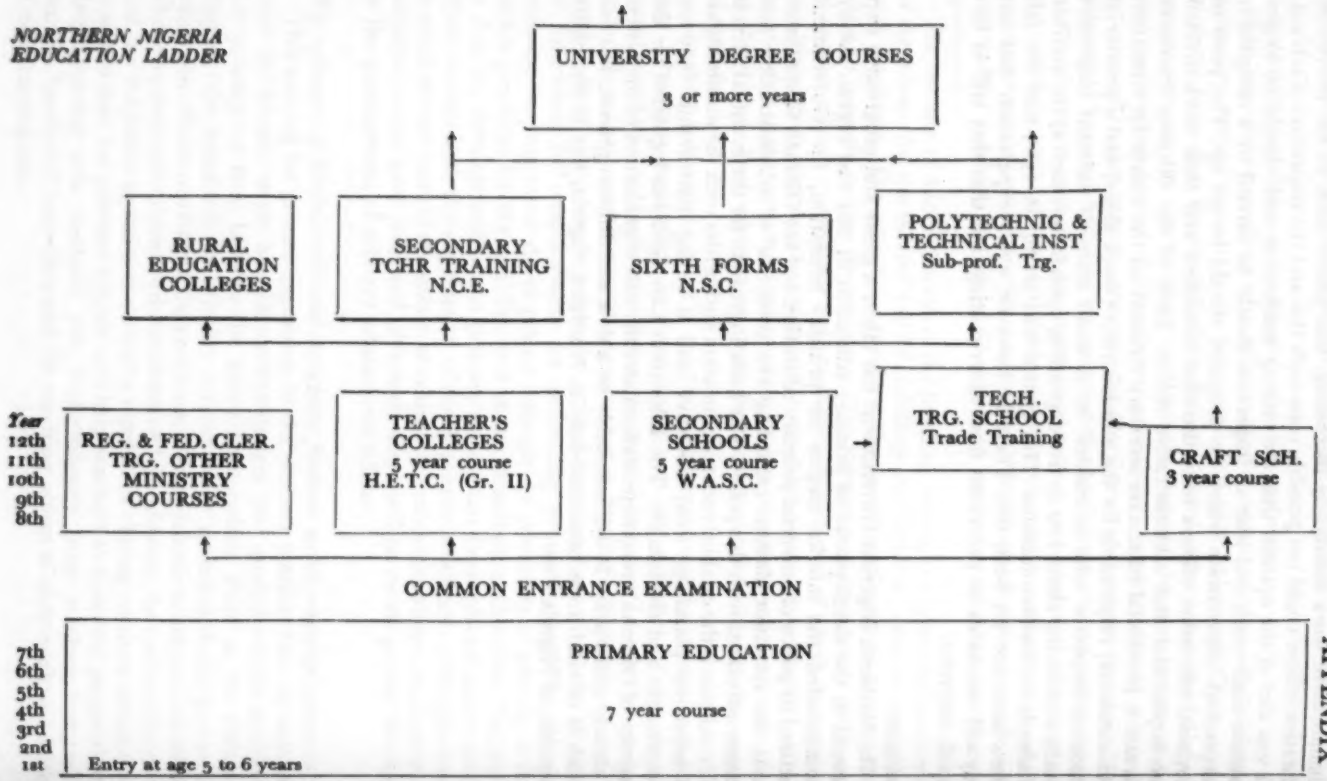
Oldman contended that at the present time, with the great volume of administrative work constantly increasing, one officer such as the provincial education officer could not possibly cope with this and the inspection of schools. He was also of the opinion that the visiting teachers as such should no longer continue their work and that all inspection should be carried by a completely independent inspectorate which he proposed should be set up. The posts of provincial education officers were therefore abolished and their work divided into inspectorial and administrative duties. Each of the thirteen Provinces has now a provincial education secretary (trained on the course for education administrators) responsible for the administrative work alone, and a provincial education inspector who is assisted by a small team of assistant inspectors usually numbering about four or five depending upon factors such as the number of schools or communications. This system was set up in 1963 and the full effects have not yet been felt. There is, however, every expectation that not only will standards be prevented from deteriorating, but that they will in fact rapidly improve.

Conclusion

The Northern Nigerian Government has taken a great and progressive step forward in the development of primary education in this vast region. Ashby recommended the interim targets for primary education, the Government declared its policy of universal primary education and the Oldman Commission made the recommendations regarding the problems of administration and finance associated with this policy. The basic ingredient for the eventual success of the scheme is the establishment of education authorities with the ramifications of improved planning, local initiative and a strong partnership between Government and the locality. The Education Law 1962 has legislated for the majority of Oldman's recommendations and the vast organisation of the system is already under way. It will inevitably be a slow and difficult process, but one which is of vital importance not only to Northern Nigeria, but to the entire Republic of Nigeria.

APPENDIX

NORTHERN NIGERIA EDUCATION LADDER



Nyasaland General Elections, 1964

by H. R. Rowland

Introduction

On Sunday, 20th October, 1963, Dr. Hastings Kamuzu Banda, Prime Minister of Nyasaland and the Life President of the ruling Malawi Congress Party, returned to Nyasaland at the end of a two month visit abroad.

During the course of that tour, he had visited many countries of Africa as well as West Germany, Britain and the United States of America. While in London he had had discussions with Mr. R. A. Butler, the First Secretary of State, and a press communiqué issued at the end of those discussions had said merely that they had ended in complete agreement.

At the time, Nyasaland had reached the constitutional stage of internal self-government. There was a Legislative Assembly of twenty-eight elected Members and a Cabinet of ten Ministers, led by the Prime Minister. All except one of the Ministers were elected Members of the Assembly, the exception being the Minister of Finance, who was an expatriate overseas civil servant. The Government had complete responsibility for the administration of all services in Nyasaland. For External Affairs and Defence the Government was not yet responsible and in the sphere of finance its powers were restricted.

The scene at Chileka Airport on that Sunday afternoon of October 20th, was noisy, colourful and blisteringly hot. The Malawi Congress Party had excelled itself in gathering to the airfield (Nyasaland's main point of entry) the largest crowd that had ever been assembled, even in a country where Sundays are regularly devoted to mammoth political meetings, and take the place of football matches in Europe. Malawi Congress Offices and District Councils in every corner of the country had been encouraged to send as many representatives as possible to meet the Prime Minister on his return, in the expectation that they would hear an announcement of outstanding importance. They had responded with enthusiasm.

It was not difficult to guess what this announcement would be. The imposed Central African Federation had already been destroyed, not least through the efforts of Dr. Banda, and December 31st was to see its final dissolution. The only further stage left to transfer to the Nyasaland Government the entire control of its own affairs was that of complete Independence, and it was to hear their Prime Minister announce this and to set the date for Independence Day that the multitude had assembled at Chileka Airport.

Speaking from the balcony of the terminal building after his hero's welcome on the tarmac, Dr. Banda gave a resumé of what had happened in Nyasaland since the day he gave up his medical practice in Britain and Ghana and returned to his homeland to lead the Nationalist Party and the country in the struggle against colonial rule. He had arrived at that very airport on July 6th, 1958. Almost immediately, he had been appointed the Life President of the Nyasaland African Congress, and had begun a campaign designed to remove the territory from the Central African Federation and to achieve its independence. Within eight months of Dr. Banda's arrival, the Governor, Sir Robert Armitage, was faced with a situation such that, in the words of the subsequent

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Devlin Commission Report, "the Government had either to act or to abdicate". Sir Robert Armitage had acted. He had declared a state of emergency on March 3rd, 1959, and placed Dr. Banda, all his lieutenants and more than one thousand leaders of the African Congress under detention. The Nyasaland African Congress was prescribed as an illegal association.

Dr. Banda and many of his senior party officials had spent over a year in detention, in prisons in Southern Rhodesia. Dr. Banda was released on 1st April, 1960, when it was evident that the Nationalist movement in Nyasaland could no longer be contained, and the climate of opinion in Britain and elsewhere demanded big concessions to the nationalists.

Dr. Banda, speaking that October afternoon of 1963 over a public address system so that even the most distant of the crowd could hear him, outlined these events and the results of the four constitutional conferences he had attended since the date of his release. Each had brought the Malawi Congress Party (the successor to the outlawed Nyasaland African Congress), more firmly into power and had extended the principle of self-government to its present stage. At the meetings he had had in London with Mr. Butler the previous month the final goal of constitutional progress had been agreed, and he was happy to let his audience know that July 6th, 1964, the sixth anniversary of his first return from exile to his homeland, was to be Independence Day for Nyasaland. On that day, the name of 'Nyasaland' would be changed to 'Malawi' and the Union Jack would be replaced as the country's flag by one which would embody the three horizontal stripes of black on red on green, which was already the Malawi Congress Party flag.

The outburst of cheering, stamping, clapping and whistling which greeted this announcement was deafening, and it was in a jubilant mood that the crowd watched the Prime Minister's convoy depart and prepared themselves to travel, in many cases some hundreds of miles, to their homes.

A little over two weeks after the Prime Minister's return, on 6th November, 1963, the writer was summoned to the Deputy Governor's Office in Zomba and was told in confidence that the discussions between Dr. Banda and Mr. R. A. Butler had included an agreement that the size of the Legislative Assembly was to be increased from its present twenty-eight members to fifty-five and that its name was to be changed to the National Assembly. Fifty of the seats were to be filled by election by voters on a General Roll, mainly Africans, and five by voters on a Special Roll, who would be mainly Europeans. A General Election was to be held two months before Independence Day, and the writer, who was then serving as Permanent Secretary in the Ministry of Local Government, was to be appointed the Supervisor of Elections to take charge of all the arrangements for the holding of a General Election. A suggestion that the election might be conducted without the compilation of Voters' Registers was rejected. Arrangements for the registration of voters on the widest possible franchise were to be put in hand as soon as possible. It was agreed that the Supervisor should hand over his present duties forthwith, should be allocated one stenographer and should estimate what further staff he would require for the organization of the elections.

Preparations for Registration

On the following day, 7th November, the Supervisor designate had a meeting with the Prime Minister, at which the general outline of registration and election arrangements was agreed. The franchise was to be extended to every person,

male and female, in Nyasaland over the age of twenty-one who had at any time spent two years in the country – with one exception. Africans who did not belong to Nyasaland or to one of the neighbouring countries of Tanganyika, Northern Rhodesia or Portuguese East Africa should not be enfranchised. The General Roll should be for Africans, and by that the Prime Minister included persons of mixed blood who wished to be considered as Africans. The Special Roll should be for persons having no African blood, and those of mixed blood who did not wish to regard themselves as Africans.

During that meeting the Prime Minister agreed to a general procedure for the registration of General Roll voters. Every qualified applicant would first be issued with a certificate certifying that he had the age and resident qualifications which were to be required. The personal particulars from such certificates would be copied into Registers of Voters in manuscript and the certificate, endorsed with the registration particulars, would be returned to the owner. A minimum of three weeks was to be allowed for registration, and teachers were to be the principal agents in the writing of Age and Residence Certificates and of the Registers. The only suitable buildings that existed in rural areas were schools, and these were to be used as registrations centres. The Prime Minister agreed that the Supervisor should, as soon as possible, go to Lusaka, in Northern Rhodesia, where the registration of voters on a similar broad franchise had been completed a month earlier.

The same afternoon, the Supervisor approached the Government Printer and provided specimens of an Age and Residence Certificate and of a Register for General Roll voters. He told the Government Printer that he required delivery of one-and-a-half million certificates, numbered and in duplicate, with the original perforated, at the latest by 10th December; and that a further half million at least would be required before the end of the year. The requirement of Registers was two-and-a-half thousand bound books in duplicate, each book to contain space for one thousand entries.

The Government Printer's initial reaction was unfavourable. The supplies of paper held, would, apart from other considerations, be inadequate to supply the three tons of Age and Residence Certificates. The Government Press was already working to capacity in the production of educational books, reports, forms and Government stationery, and in the preparation of legislation resulting from the dissolution of the Central African Federation. To contemplate an order of the magnitude demanded within the time limit set would involve daily overtime and would in any case depend on the early arrival of the large stocks of paper ordered from Britain, which were then on the water. It was learned that the ship carrying these stocks was due to reach Beira – the port in Mozambique which serves Nyasaland – before the end of November. By securing priority in railage, the deadline of December 10th for the first one-and-a-half million certificates could just be achieved. But in view of the size of the requirement, the quality would necessarily be inferior and it was therefore decided that, to assist the general public to preserve their Age and Residence Certificates, polythene envelopes should be obtained, in which the certificates could be kept.

During the next few days a tentative programme was prepared which would allow time for the necessary publicity and instruction of the public and the registration teams (consisting mainly of teachers) in the procedures of registration, to allow for the delivery and distribution of all materials required in that operation and to permit also the making of the Regulations, Proclamations and

Notices, which would govern the registration of voters. It was concluded that the 30th December would be the very earliest date on which registration could begin. Since teachers and school buildings would be used, it was necessary to postpone a fortnight the opening of the January school term, due to begin on January 7th. At a further meeting, the Prime Minister agreed that the dates for registration should be December 30th to January 19th, both dates inclusive, and instructed the Minister of Education to postpone the opening of the January school term.

On the 17th November, the first public announcement was made of the impending General Election. Speaking over Radio Malawi, the Nyasaland broadcasting system, which was one of the first services to be taken over from the Federal Government, the Prime Minister gave details of the new parliament – the Independence Parliament – which had been agreed between himself and Mr. R. A. Butler, and warned his audience that the registration of voters for a General Election would take place very soon. In his broadcasts he derided the opposition parties and invited them to accompany him on a tour of the Central Region of the country which he planned to make in December. If these parties had insufficient money to pay for transport, he himself would provide it.

By mid-November staff had been provided to the Supervisor of Elections to enable offices to be set up in Blantyre and Zomba and sufficient furniture and equipment had been obtained. A Deputy Supervisor of Elections was appointed by the Governor and an Assistant Supervisor of Elections, to be stationed in Blantyre. The former had had experience as Deputy Supervisor in the 1961 (limited franchise) general election and had considerable O & M training and experience. The latter was an Information Officer, who had started his service as an administrative officer. These two officers brought invaluable specialist talent to the organization of an election.

Immediately the announcement had been published that elections were to take place, the Elections Office settled down to planning the detail of publicity campaigns and the forms and procedures for the registration of voters. No census had been taken in Nyasaland since 1946 and estimates of population were totally unreliable. To obtain some guide as to the numbers of people over the age of twenty-one living in Nyasaland, the figures of tax collection were taken as a basis. First the figure was found for the record tax collection in each District. Since only males over the age of eighteen are liable to tax, this figure was doubled and a further 25 per cent. was added to cater for those who had evaded their tax obligation. The calculations gave the following probable numbers of potential voters for each of the twenty-one administrative Districts:—

Record Tax Collection		*Multiplied by 2*	*Add 25 per cent.*	
Karonga District	16,500	33,000	42,000	
Rumpi District	5,500	11,000	14,000	Northern
Nkhata Bay District ...	9,000	18,000	23,000	Region
Mzimba District ...	28,500	57,000	72,000	151,000

Record Tax Collection		*Multiplied by 2*	*Add 25 per cent.*	
Kasungu District ...	13,000	26,000	33,000	
Kota Kota District ...	21,400	43,000	54,000	
Dowa District	38,600	77,000	97,000	Central
Fort Manning District ...	12,000	24,000	30,000	Region
Lilongwe District ...	71,500	143,000	178,000	560,000
Dedza District	39,500	79,000	100,000	
Ncheu District	26,500	53,000	68,000	
Fort Johnston District ...	36,500	73,000	92,000	
Kasupe District	31,500	63,000	79,000	
Zomba District	41,500	83,000	104,000	
Chiradzulu District ...	24,000	48,000	60,000	
Blantyre (Rural) District	32,000	64,000	*55,000	Not distin-
Blantyre (Urban) District			*25,000	guished on tax records
Cholo District	34,000	68,000	85,000	
Mlanje District	65,500	131,000	165,000	Southern
Chikwawa District ...	21,000	43,000	55,000	Region
Port Herald District ...	16,000	32,000	40,000	785,000

* Estimated.

These figures gave a national total of just under one-and-a-half million potential voters.

It was decided that the work of organizing for the registration of voters should be divided between the three officers of the Elections Office. The Supervisor was to be responsible for all drafting of legislation and the clearing of all policy matters with the Governor or the Prime Minister, and to exercise general supervision over all registrations and election arrangements. The Deputy Supervisor was to select and order all supplies, to design all forms and charts, and arrange for the instruction of the field staff, and the preparation of guides and handbooks for their use. The Assistant Supervisor in Blantyre was to design and produce all pamphlets and posters for the general public, prepare a series of radio programmes and arrange times for regular broadcasts, and be responsible for the assembly, sorting, checking and distribution to the Districts of all registration and election stores.

On the Prime Minister's instructions, the Parliamentary Secretary, Ministry of Labour, was given special responsibility for the registration arrangements, and day to day contact was maintained with him by the elections staff. He was Chairman of the Central Elections Team, which had its first meeting on November 25th. At that meeting, a timetable was approved for the publicity arrangements, which involved sending nineteen Landrovers, each fitted with public address system and tape-recording apparatus, into the field fully equipped by 10th December – the earliest date by which it was hoped that the pamphlets, posters and tape-recorded messages could be made available and the vehicles fitted for public reproduction.

On 25th November, the first two Election Circulars were issued to the Government Agents in charge of each of the twenty-one administrative districts. The first required each Government Agent to form his District Election Team and to submit recommendations for the division of the district into the number of registration sub-districts that appeared necessary. In general, the area of jurisdiction of a Local Court was suggested as a sub-district, but where factors of distance and population made these areas excessive, the teams were to recommend their sub-division. The second circular set out comprehensively the general plan for the registration of voters and listed the series of operations which must be undertaken in the districts before the opening of registration on December 30th.

Before the end of November, proofs were available from the Government Printer of the Age and Residence Certificates and of the Register, and on 26th November the first mock rehearsal was held in the Central Prison at Zomba. Using the staff of the Government Agent, Zomba, for the writing of certificates and registers, and prisoners representing the public, many valuable lessons were learnt, but basically, this exercise confirmed that employing a team of five writers simultaneously, it was possible to register at least one hundred persons per hour.

On 4th December, a further meeting was held of the Central Election Team, to report progress in the preparation of publicity and the ordering and delivery of supplies. It was reported to this meeting that the Government Printer's supplies of paper from Britain had reached Beira in November, and had by mistake not been unloaded. They were still in the hold of a ship which was already on its way to Australia. A search was in progress throughout Central Africa for paper of any quality and colour in the size of roll which would fit the particular machine on which the Age and Residence Certificates were to be produced. All normal Government tender procedure had been waived, and supplies were beginning to trickle in.

On the same day, December 4th, a more realistic rehearsal of registration was held at a school in the Zomba District, preceded by a performance of the puppet play on "How to register as a Voter", given from the back of a Landrover, which had been designed and prepared by the Public Relations Organization of the Department of Agriculture. All the conditions of genuine registration were simulated at this rehearsal, and many most valuable lessons were learned. The rate of registration here was a little over 70 per hour, retarded by the excessive courtesy of the teachers who were writing the Certificates and Registers, and the inattention of the marshals to the need to maintain a continuous flow of applicants to the registration staff.

By this time, a debate had begun over the qualifications to be required for voters on the Special Roll. The Prime Minister's original broadcast on 17th November had indicated that the distinction between the General Roll and Special Roll should be the possession of African blood. This would have placed the entire Asian community (which out-numbered the European community in Nyasaland) on the Special Roll, and the Nyasaland Constitutional Party raised strong objections to their inclusion. While this issue was being considered the draft Regulations which had been prepared to govern the qualifications and registration of voters were hastily amended to exclude any reference to the qualifications and were published on 13th December, a little more than a fortnight before the registration of voters was due to begin.

In the districts, work went generally well on the mapping and descriptions of registration sub-districts, but there were regrettable differences of opinion within the Election Teams, which culminated in the hurried removal of three Government Agents and one Assistant Government Agent. On 20th December, a Government Notice was published declaring the registration sub-districts throughout the territory. In all, there were to be 327 registration sub-districts, and in many of them, the registering teams would have to move from one centre to another during the actual registration period.

By the 20th December, the debate over the qualifications for Special Roll voters had been resolved, and Regulations published that day prescribed that only persons of European descent would be eligible for registration on the Special Roll. Asians and persons of mixed blood together with Africans were qualified for the General Roll only. There was to be no option on the part of anyone as to which Roll he should adopt.

For the selection of staff to man the three hundred General Roll registration centres, the District Education Officers were required to find teachers. In a few districts, insufficient teachers were available (a total of 13 were required at nearly all centres to allow a full team and a relief team to alternate during the nine hours that the registration centres were to be opened daily). For the training of these teams in their duties, it was arranged that the six Government Public Relations Officers should be employed as instructors, and the Deputy Supervisor of Elections had arranged a five-day course for them in Zomba during the first week of December. From the 10th to the 24th December, the Public Relations Officers were on tour, two in each of the three Regions, and some 2,000 teachers were given instruction and shown the forms which they would be required to complete during the registration period.

The nineteen Information Units set out as planned on 10th December, each carrying a tape-recorded message in two languages from the Prime Minister, and a conversation piece between an 'expert' and an enquirer on how to register. Six of these units carried also the puppet show devised by the Public Relations Organization of the Department of Agriculture. The scene of the puppet play represented a registration centre, and marionettes played the parts of registration staff and of various categories of applicants for registration.

Regular broadcasts at specified hours, twice each day, started on December 15th. The Prime Minister gave the first message, and seven other Ministers and Junior Ministers also broadcast, each giving a particular message. Mrs. Rose Chibambo, Parliamentary Secretary, Ministry of Health, appealed particularly for women to exercise their right to be registered as voters, obtained now virtually for the first time. Events proved that the women of Nyasaland responded well to this appeal, and the number of women who finally registered came to well over half the total.

During the latter half of December, the Special Roll again became the subject of controversy, both in the Legislative Assembly and in the Press. One faction believed that the existence of a Special Roll for Europeans could only be regarded as a racial irritant to any independent Government, and argued that Europeans should be allowed to show their approval of an African Government by registering and even standing as candidates on a single Roll of voters. The other view was that the skills and enterprise of the European had made and was still making so significant a contribution to the country's economy that it was right that the European community should be specially represented in the legislature.

Meanwhile, unexpected difficulties were constantly occurring in the delivery of supplies, essential to the registration exercise. The intention had been that bulk supplies of all materials should be gathered in the Blantyre Elections Office, there divided into twenty-one sets, and sent to each district for subdivision into the individual registration kits. Difficulties in the supply of paper and of the polythene wallets made it evident that distribution from the Blantyre Office could not be completed in time to allow for the further breakdown of large consignments and their distribution to the three hundred registration teams before the registration period began. It was decided that a standard kit, sufficient in all respects for the registering of 5,000 people, should be assembled in the Blantyre Elections Office, and that each district would be given a number of kits, corresponding to the number of teams that would operate within the district. 350 wooden boxes specially designed to contain all the equipment were ordered from the Government saw mill, and, as an emergency order were produced within a week. In the Blantyre Elections Office, secondary school pupils on holiday were employed to sort the bulk supplies, to insert carbon papers into the registers and certificate books and to make up each kit to the requisite size. These kits were complete and included ball-point pens, pencils, stamps and stamp pads, display signs, drawing pins, message pads, and various forms on which to record progress of registration, quantities of certificates and registers used, staff attendance, etc. A comprehensive Handbook, with clear illustrations, had been prepared by the Deputy Supervisor and was issued with each kit and to each Government Agent. Fifty-six boxes, representing the initial requirements of the whole of the Northern Region, were despatched by lorry on 13th December. A further 150 kits were sent to the Central Region on 19th December, but that delivery virtually exhausted the supplies of Age and Residence Certificates and of polythene wallets. From then on, delivery had to be taken in small quantities from the Government Printer, as the certificates came off the press, and anxious hours were spent at the airways terminal and the railways express goods delivery office waiting for materials promised from Salisbury. As sufficient were received to make up one district kit, boxes were prepared and supplies for one more district despatched. The last of the boxes reached the district headquarters on Christmas Eve. By Boxing Day, the entire contents of two boxes, with the exception of the pens and drawing pins, had in one district been rendered totally unfit for use by white ants.

The System of Registration

The visit of the Supervisor to Lusaka, Northern Rhodesia, in November had provided valuable advice, particularly on media of publicity and on aspects of the training of staff for registration and equally valuable warnings. In Northern Rhodesia, the registration of voters on both the Main Roll and the Reserved Roll had been undertaken at the same registration centres and had led to some difficulties. In Nyasaland it was decided to use separate registration centres for the two Rolls, Special Roll voters being registered at district headquarters, and General Roll voters at other centres, principally school buildings. In Northern Rhodesia, the compilation of the voters' registers had involved the typing, at each district headquarters, of the names and numbers of all voters on to wax stencils, of which fifty copies were then duplicated. The requirements which such a system demanded in typing capacity and in paper (the use of at

least one-and-a-half million sheets of duplicating paper) appeared unjustifiable in Nyasaland's circumstances, nor did the timetable in Nyasaland – which required that the elections be completed by the beginning of May – permit the time to be spent in such preparation of voters' Rolls.

For the registration of voters in Nyasaland, two forms were employed. The first was a simple certificate known as an "Age and Residence Certificate". This carried the first name, surname, sex and address of the owner and certified that he/she was 21 years of age and had resided for two years continuously at any time in Nyasaland. The reverse side of the certificate was blank to allow for a rubber stamp endorsement in which details of the register entry were subsequently entered.

The second form was the Register of Voters. The Register was made up of 25 forms bound in triplicate. The original and duplicate forms were perforated at the binding edge to allow them to be detached for use as separate registers. The original, duplicate and triplicate forms were printed in distinct colours as an aid to recognition. At the head of the form spaces were provided for inserting a Register Serial Letter and a page number. Five columns were used for recording details of first name, surname, sex, village or place of work, native authority or township ward. Space was provided for 40 entries on each page, the lines for each entry being numbered 1-40. A completed register would therefore contain 1,000 names. The foot of each form contained space for the registering officer's signature, the net number of entries on the page and a box for the Registration Centre Identity Stamp.

The procedure required that the Superintendent at each Centre, when he issued registers for use by the registration staff, should allocate a serial letter to each register. This serial letter, the register page and line number were entered in the Registration Centre Identity Stamp impressed on the reverse side of the Age and Resident Certificate. Thus each voter was provided with a distinct registration identity made up of the:

Registered Centre Identity Code.
Register Serial Letter.
Register Page and Line Number.

A voter registered on page 16, line 27 in Register Letter B at Kasungu Centre No. 7 would have on his Age and Residence Certificate an identity reading KU 7/B/16/27. This code enables that voter's name to be readily traced in the register when he comes to claim his vote at the election. All entries in Age and Residence Certificates and in the Registers were to be made in capital letters.

It had originally been intended that the registers should be printed in duplicate, with the original page perforated for detachment. The original page was to be of moderately transparent flimsy paper and all entries in the register were to be made with black ink ball-point pens. These original sheets would, after the close of registration, be sent to the Elections Office in Zomba where they could be reproduced by a simple photographic process on a Dyeline machine, the original sheet serving as a negative. Subsequently, and with the Prime Minister's agreement, it was decided that probably no more than three copies would ever be required of the registers – the original for the Elections Office (where it could be reproduced if necessary), the duplicate, which was also perforated and detachable, for the District Headquarters and the third copy, which would remain the bound register to serve as the exhibition copy and for the checking of voters on Polling Day. This was the system which was

adopted, and in the event no copies were asked for of any General Roll Register and only five persons asked for copies of either the whole or of particular sheets of the Special Roll Registers.

The books of Age and Residence Certificates were printed in duplicate, each certificate numbered serially and with the original perforated for detachment. It was thought that the retention of duplicate certificates would be necessary to enable the issue of a fresh certificate to anyone who had lost his own certificate. In fact, it was found that this precaution was unnecessary; nor was there any need for the certificates to be numbered. To provide a replacement of a lost certificate, it was necessary only to find the name of the applicant in the Register of Voters, provide a new certificate appropriately endorsed, and to mark the triplicate copy of the register with a "D" to ensure that only a person presenting a duplicate certificate against that registration number would be given a ballot paper.

With the Prime Minister's approval no facilities were to be provided for registration other than by an applicant personally in Nyasaland. The complications of postal registrations and of extra-territorial registration were thus avoided on both the General and the Special Roll. What was required of an applicant for registration was that on reaching his registration centre he should enter first the room (usually one classroom of a school block) where his (or her) personal particulars were given to an authorised officer who wrote them into an Age and Residence Certificate. The authorised officer had to satisfy himself that the applicant was twenty-one years of age and had the necessary two year qualification.

Having received his certificate the applicant then would proceed to a second room, show the certificate to the registration officers, and have the same particulars copied into the Voters' Register. The Age and Residence Certificate would then be endorsed on the reverse with the registration particulars and the certificate returned to the applicant together with a polythene wallet in which to keep it.

The other classrooms of the school building were to be available as waiting rooms to provide shelter for those waiting their turn to register. Since the registration period was at the height of the rainy season it was felt essential to provide such shelter.

The Registration Period – December 30th-January 19th, 1964

All the district election teams had been encouraged to organize the people of each registration area into groups, preferably by villages, and to allocate to each group one or two days on which those particular persons would go to the registration centre. The registration areas had been designed on the basis of one (it was thought) to not more than 6,000 adults. In this way, it was intended to regulate the flow of applicants so that there should be five or six hundred per day at the busiest registration centres. On this calculation, and using over 300 registration centres, one-and-a-half million persons could be dealt with comfortably within two weeks, and the third week would be comparatively free.

The staffing arrangements for the busier centres (to cater for 500-600 persons per day) were as follows. In charge of each centre was a superintendent, who was in most cases the Headmaster of the school whose building was being used. Three teachers were to be on duty as "authorised officers" writing Age and

Residence Certificates, and two others as "registration officers" writing the registers throughout the nine-hour period each day, for 21 days including Sundays.

These five teachers constituted a team, and a relief team of five was required to alternate with the first team. In addition two "spares" were to be provided at each centre to allow for illness, accident, etc. Thus a superintendent and twelve teachers was the normal staff complement. Secondary school students, as well as field staff of the Natural Resources Departments, were employed wherever there were insufficient teachers available. In addition court messengers and district council staff were used as marshals to direct the public to the appropriate rooms and tables, and a constable of the Nyasaland Police was on duty at each centre to keep order and to convey daily reports on numbers registered to the district headquarters.

The Deputy Supervisor and the Assistant Supervisor spent the first week of the registration period touring the districts in the Northern and Central Regions. Between them they visited more than fifty registration centres and confirmed that the machinery of registration was operating smoothly in all districts. Some had evidently been much more successful than others in regulating the flow of applicants, and in those where this organisztion had not been particularly effective the people were taking advantage of the comparatively dry spell, which occurred at the beginning of the period, to attend the registration centres during the first days. In Lilongwe District the numbers applying at nearly all of the twenty-eight centres were greatly in excess of what had been expected. One centre succeeded in registering 2,660 people in one day, at a rate of nearly three hundred per hour, compared with the 100 per hour which had been given as a reasonable rate. This was achieved by using both teams simultaneously and virtually without any rest period.

In the majority of districts registration followed the recommended pattern of village by village attendance on predetermined dates. But even so, difficulties developed very early on in the maintenance of supplies.

By the second day of registration, telegrams and telephone messages were reaching the Elections Office, demanding further supplies, particularly carbon papers and ball-point pens. Some registration centres claimed that the carbon papers supplied were sufficient for only five writings, as opposed to the twenty-five on which the initial issues had been based. The black ink ball-point pens supplied were not of the best quality and tended either to flood or to fail to make any impression. The limited reserves of these and other items which had been stored at each regional headquarters were very soon exhausted; local purchase was encouraged but had to be supplemented by further consignments from the Elections Office.

From two districts, early in the registration period, came reports of refusals to register certain applicants. In one district, the Superintendent of one centre was provided with a list of the political opponents of the Malawi Congress Party and was instructed by a local party official that the persons named on the list were not to be registered. As soon as this was reported to the Party Headquarters and to the Prime Minister, prompt action was taken to cancel any such instructions. The Prime Minister emphasized that he wished every adult, of whatever political view, to be registered.

Thereafter the efforts of the party were directed to that end, and local enthusiasm to carry out this directive led to incidents in which persons of a particularly religious sect, the Jehovah's Witnesses, whose principles forbade

them to take part in any political activity, came into conflict with officials and members of the Malawi Congress Party.

By controlling the flow of applicants to the registration centres it had been expected that a daily average of 100,000 persons would be registered throughout the country. On the first day the figure was 110,000, in the succeeding days, it rose and the fourth day's figure was 185,000. The total registered after four days was over 600,000, and by that time requisitions for additional supplies of Age and Residence Certificates were coming in from many districts. In few cases was it possible to meet the total demand from a district and Age and Residence Certificates were being collected as they came off the press and sent by vehicle or by air in quantities which would, it was hoped, last for a few days until more could be secured. The rate of registration continued at more than 100,000 per day for the first ten days of the three-week period. Thereafter, to the relief of those responsible for the supplies of materials, it dropped steadily and for the last week averaged less than 50,000 per day. At the close of business on Sunday, January 19th, the total number of persons registered had reached 1,871,170. The breakdown of this total into males and females gave the interesting result that of the total, more than 55 per cent. were women.

A very satisfactory feature throughout the period was the daily reporting of progress to the Elections Office, and thence to the Press and Radio Malawi. At the close of business each day the constable on duty received from the superintendent a form showing the day's figures of registrations and the running total for the centre at which he was on duty. This he carried, usually by bicycle, to the nearest police post and the message was transmitted by police radio to the district headquarters. By 9 a.m. each morning the consolidated figures for each district were sent, again by police radio, to Force Headquarters in Zomba and were delivered to the Elections Office. A total of almost 10,000 messages dealing with the registration of voters were passed with commendable accuracy by the Police Signals organization in the month covering the registration period.

The registration of Europeans on the Special Roll got off to a very slow start. The press gave space to the arguments of both camps – those who maintained that the Special Roll was a racialistic anachronism which should be boycotted, and those who believed that the influence of Europeans needed to be felt still in the legislature, who urged everyone to exercise their right to register as voters. Individual letters were sent by the Minister of Transport and Communications (a European) to every European resident asking for support in an approach which the Minister intended to make to Her Majesty's Secretary for State for the abolition of the Special Roll, and for the re-registration of all Europeans on the General Roll.

The Leader of the Opposition had let it be known that he would be satisfied with 1,000 registered European voters and would regard that number as sufficient justification for five Special Roll seats in the Assembly.

In the event the total number of Europeans who registered on the Special Roll was 814, and the question as to whether special representation for Europeans was to be retained was referred to the Secretary of State.

The decision was announced late in January. It was that the Special Roll would remain but that the number of seats allocated to it was to be reduced from five to three. At the same time, to allow those who had deliberately boycotted the Special Roll to have some political say and to demonstrate their support for the African Government, the General Roll register was to be reopened and any European who had not registered on the Special Roll was to be

allowed to register on the General Roll. But registration by a European on the General Roll would not carry any right of candidature.

Arrangements were made to re-open the General Roll registers from February 24th to 29th, the only persons permitted to register during that time being Europeans who had not registered on the Special Roll. This additional week of registration provided a further 620 names to the General Roll figure, bringing the final total to 1,871,790.

The registration of voters had not been without its mistakes. At a few centres the triplicate register, using two carbons, was not understood, and the superintendents carefully removed one carbon from the register before use. Until such centres were visited by a member of the District Election Team, names had been written on every alternate sheet of the register used. At one centre the superintendent gave both of the first two registers used the serial letter "A', resulting in duplication of registration identity particulars. Sheets were torn out of the registers which should have been left in, and there were numerous errors of addition in reporting daily progress.

But the system proved itself to be simple, manageable and economical, and the faults and difficulties that did occur were the result of too short a time allowed for the preparations, including particularly the assembly of materials and the training of staff. The only modification that the writer would recommend is in the production of the Age and Residence Certificate. The serial numbering of these certificates is unnecessary, as also is the retention of a carbon copy. Printed on fairly durable paper, and bound in books of 100, the writing of the certificates could be speeded up, the checking of numbers of certificates issued against the number of persons registered would be simplified, and the issue of polythene covers would be superfluous.

Delimination of constituencies

Because the future of the Special Roll was undecided at the end of the official 3-week registration period, and to avoid delay in the main task of delimiting the constituencies, regulations were made at the end of January empowering the Governor to appoint a Commissioner to delimit only the fifty General Roll constituencies. Whereas previous Commissions had been required to arrange constituencies each having, as nearly as possible an equal number of registered voters, these Regulations allowed the Commissioner to take account of the size, and the adequacy of communications as well as the number of voters in any proposed constituency.

On 27th January, 1964, the Supervisor of Elections was appointed as Constituencies Commissioner. Between 3rd February and 24th February he visited each of the twenty administrative districts (the two districts of Blantyre had by then been amalgamated) and had meetings in each with Government Agents and local political leaders. The Commissioner's Report was completed on 27th February.

It was not until the end of February that the Order-in-Council was made in London, reducing the number of Special Roll seats in the Nyasaland National Assembly from five to three. The powers of the General Roll Constituencies Commissioner were thereafter extended to cover the Special Roll constituencies. The division of Nyasaland into three such constituencies presented no great problem, and the Commissioner's Report on the Special Roll constituencies was presented on 5th March.

On 11th March a Proclamation was published declaring the fifty General Roll and three Special Roll constituencies, and two days later a further Proclamation named April 3rd, 1964 (later changed to April 6th, 1964) as Nomination Day for candidates, and April 28th and 29th as the days for the holding of a poll.

The Election Regulations which had been made early in March prescribed the qualifications for candidates. They could hardly have been simpler. Any African or Asian who was registered as a voter, and who was a British Protected Person or British Subject was eligible to stand as a candidate on the General Roll. Anyone registered on the Special Roll – and only Europeans were eligible to be registered on it – who was similarly a British Protected Person or British Subject could become a candidate on that Roll.

Conclusion of the election

On Sunday March 15th, two days after the Proclamation of an election had been published, another mammoth political meeting was held – this time at an airfield between Cholo and Mlanje, two heavily populated tea-growing districts of the Southern Region. Special trains and buses were run at reduced prices and the Malawi Congress Party put into operation its full organization to ensure maximum attendance. The Party estimated that over 100,000 people were present on that occasion to hear the Prime Minister announce the names of the fifty persons – 49 men and one woman – whom he had selected to stand as the Party's representatives in each of the General Roll constituencies. No Malawi Congress Party candidate would contest any of the three Special Roll (European) constituencies. A few days later the Leader of the Opposition announced the names of the three Europeans who would represent his party, the Nyasaland Constitutional Party, for the three special roll seats.

From that day until Nomination Day on April 6th, the efforts of the Malawi Congress Party were directed to ensuring that each of their fifty candidates should be returned unopposed. The one African political party which remained nominally alive in opposition to the Malawi Congress Party, known as 'Mbadwa', announced towards the end of March that it did not intend to contest the election.

The times prescribed for the receipt of nomination papers were between the hours of 9 a.m. and mid-day on April 6th. At mid-day on that day one candidate only had submitted nomination papers in respect of each of the fifty general roll constituencies and in each of the three special roll constituencies. The candidates in each case were those names whose had been announced by their respective Party leaders in March.

With all the fifty-three seats in the National Assembly filled without a contest the preparations that had been made for the holding of a poll proved superfluous and no opportunity was given to show whether a polling rate of 5,000 per day through one set of ballot boxes (using blank ballot papers and a separate ballot box for each candidate) could have been achieved in reality, as it had been under the artificial conditions of the Central Prison, where prisoners had been given endorsed registration certificates and where warders had acted as checkers and polling assistants.

Quarterly Notes

UNITED KINGDOM – *Commonwealth Legal Advisory Service*

During the year ended June 1st, 1964, the main work of the Commonwealth Department of the British Institute of International and Comparative Law has been concerned with the Commonwealth Legal Advisory Service.[1] This Service was inaugurated in 1962 in co-operation with the Department of Technical Co-operation. In the year 1962/63 the Institute had already dealt, or was dealing, with enquiries under the Advisory Service from the Governments of India, Kenya, Nyasaland, Tanganyika, Uganda, West Indies and Zanzibar. Much of the work then in progress has now been completed and additional enquiries have been received from Bechuanaland, Cameroon, Southern Rhodesia and the Sudan. Among the subjects which have been, or are being dealt with by way of surveys of law and practice throughout the Commonwealth, or by bibliographies, may be mentioned: Criminal Procedure; Civil Procedure; Delay in the Trial of Civil and Criminal Cases; International Law particularly relevant to a new State; Interpretation of Laws; Evidence; Election Law; the Legal Consequences of Illegitimacy; the Machinery of Law Reform in the Commonwealth; Laws of Copyright; Capital Punishment; Land Law and Land Registration Law in Commonwealth countries; Aspects of Statute Law Revision in Commonwealth countries; Control of Commercial Agencies; and Preventive Detention. It is a valuable feature of these surveys that even though initially requested by one country, they become available for all countries making use of the Advisory Service.

Under the Commonwealth Legal Advisory Service arrangements can also be made for the Institute to select experts from the Commonwealth or other appropriate areas who may carry out special projects for particular countries. These experts may pay visits to countries requesting their services, arrangements for their stay being negotiated between the Department of Technical Co-operation in London and the Government of the country concerned. One African country required the services of an expert to record local customary law. Through the co-operation of the School of Oriental and African Studies, the Department of Technical Co-operation and the British Institute, this request was met by arranging for a lawyer from another African country, trained at the School of Oriental and African Studies, to undertake the work; the financial aspects of the matter were settled with joint support from Governmental and Foundation sources.

The Institute is also undertaking, on its own initiative, the preparation of a series of surveys of legal problems of wide interest in the Commonwealth, particularly in its developing areas. It is hoped that the first of these surveys, "Hire Purchase Law and Credit Financing in Commonwealth and other Common Law Countries", which is being prepared by Mr. R. M. Goode, the author of the leading English treatise on the subject, and Professor J. Ziegel of the University of Saskatchewan, will be ready by the end of 1964. Other titles in this series of surveys which are now planned include "The Admissibility of Evidence in Criminal Proceedings in the Commonwealth and Limitation of Actions".

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[1] See page 114, *J.L.A.O.*, Vol. III, No. 2, April 1964.

Reference was made in the Director's Report for 1962/63 to the planned production of an Annual Survey of Commonwealth Law under the joint auspices of the Faculty of Law of the University of Oxford and the Institute. Encouraging progress has been made during the period under review towards this important project. It is believed that the work, being not too large in bulk, but sufficiently detailed with appropriate references, to be available in practice and in Universities throughout the Commonwealth, may ensure the highest possible level of information about Commonwealth legal developments within that area and beyond. The list of contributors to the Survey has now been completed; the General Editor will be Professor H. W. R. Wade of the University of Oxford. The Faculty of Law of the University of Oxford and the Institute have appointed Miss Barbara Lillywhite, formerly Lecturer in Law at the University of Exeter to the post of Assistant Editor. Miss Lillywhite will reside at Oxford and work in the new Law Library of the University. She has also been appointed to a Research Fellowship of the Institute. It is hoped that the first volume of the Annual Survey will appear in 1966, covering material received in 1964/65.

Professor L. C. B. Gower has continued to act as Adviser to the Institute on Legal Education in Africa. His period of secondment to the Nigerian Council of Legal Education, which was made possible by a generous grant from the Gulbenkian Foundation, comes to an end in October, 1965.

UNITED NATIONS – *E.C.A. Seminar on Central Services to Local Authorities*

This seminar which was mentioned in our last quarterly notes, was held at the Institute of Administration, Zaria, Northern Nigeria from June 29th to July 11th. All the Regions of Nigeria sent representatives as well as Dahomey, Ethiopia, Gabon, Gambia, Ghana, Kenya, Libya, Madagascar, Mauritius, Niger, Northern Rhodesia, Rwanda, Senegal, Sudan, Tanganyika and the United Arab Republic. A report of the proceedings will be published shortly.

GILBERT AND ELLICE ISLANDS – *Local government reform*

At a meeting in March, 1964, the Gilbert and Ellice Islands Colony Advisory Council approved a memorandum which proposed reforms in the local government system involving, among other points, a revision of the conciliar system and increased devolution of authority. A select committee was appointed to examine the financial implications.

EASTERN NIGERIA – *Customary Courts*

Customary Courts have now replaced the old Native Courts in Eastern Nigeria and special attention is being given this year to their control and supervision. Consideration is also being given to the codifying of native law and custom. As a preliminary a collection is to be made of important decided cases in the Customary Courts.

NORTHERN RHODESIA – *Changes in provincial administration*

Sweeping changes are to be made to Northern Rhodesia's provincial administration. In all eight provinces, including Barotseland, provincial commissioners who were members of the civil service are to be replaced by men appointed by the Prime Minister.

The provincial administration will be more centralized under the Government than in the past. It will no longer be responsible for judicial functions,

which will come under Ministry of Justice, and local government functions will come under the Ministry and Local Government.

KENYA – *Nairobi Clinic built by Voluntary Donation*

The Mayor of Nairobi, Alderman Charles Rubia, has officially opened the Association for the Physically Disabled's new children's orthopaedic clinic in Nairobi. The clinic, built entirely by voluntary donations, is equipped to cater for 100 children and give 500 free treatments a month. Many local businesses and private patrons have provided money for the project. Apart from the employed staff, a doctor, a surgeon, a physiotherapist and several unqualified people work voluntarily at the clinic. The Mayor said that the clinic was very much a Nairobi effort although it had received support from many quarters, including overseas. It represented a wonderful example of what can be done with a fundamental social and health problem when its obstacles seem insurmountable.

GHANA – *Establishment of Greater Accra*

Accra City and Tema Urban Councils are to be abolished and to be replaced by a joint Accra-Tema City Council, functioning under an executive chairman to be appointed by the President (the chairman was formerly elected). The Council will consist of 35 members representing the various wards in the two areas. A new region, to be known as Greater Accra, will be created with a regional commissioner at its head. These measures are contained in the Local Government (Amendment) Bill which has had its second reading in the House of Assembly in Accra. The decision to form 'Greater Accra' has been taken in order to ensure the effective planning and co-ordination of local government services in the area.

Book Reviews

TANGANYIKA: THE DEVELOPMENT OF ITS LAWS AND CONSTITUTION, by J. S. R. Cole, Q.C. and W. N. Denison, B.C.L., LL.B., *Stevens and Sons*, 1964; pp. 339; 70s.

The authors' very first words are: "The purpose of this book . . . is . . .". If the authors felt it necessary to set out their purpose at once, so must a reviewer. It was to describe in a general way the constitutional structure of Tanganyika and to give some account of the various laws which it has adopted for the proper regulation of its internal affairs. They state that the body of the book consists mainly of an impersonal resumé of the various laws appearing to be relevant to their main thesis, unencumbered by any inferences, explanations or prognostications not strictly necessary to explain the matter in hand. They also state that the book is directed not so much towards the professional as towards the general reader.

Of the 266 pages in the body of the book, 120 are assigned to the constitutional framework under the main headings of Independence, the Republic, Parliament the Executive (including an eight-page section on Local Government) and the Courts and the Legal Profession (including an eight-page section on Local Courts).

The section on Local Government begins with a brief description of the simple pattern of local government – native authorities in rural areas and township authorities in urban areas – which existed in Tanganyika until the early nineteen fifties. There follows a mention of the recommendations for local government reform made by a 1949 committee, resulting in the 1963 Local Government Ordinance. The failure of the two-tier system and of multi-racial district councils is contrasted with the rapid expansion of the one-tier district councils – since 1959, almost exclusively comprised of African members. The reforms of the independent Government are noted; in particular the transferring of law and order functions from chiefs to the executive officers of district councils; and in February, 1963, the completion of the divesting of chiefs of all their statutory functions. The upshot has been a return to the simple pattern of local government namely, town and district councils regulated by the Local Government Ordinance and municipal councils regulated by the Municipalities Ordinance. These two laws are dealt with in two pages and the section on local government is concluded with a brief summary of elections legislations.

The section on local courts traces the gradual withdrawal from the position adopted by Sir Donald Campbell in 1929 as part of his policy of "indirect rule". His view was that customary courts should form an arm of the executive rather than a branch of the judiciary as they had been formed in 1920 by one of the first acts of the British administration. The withdrawal is followed through the Ordinances of 1951, 1961 and 1962 but the story has to be left incomplete with an outline of the reforms contemplated at the time that the book went to press.

In the second part of the book, the authors provide a digest of the laws themselves within less than 140 pages – a formidable task. They begin with notes on customary law, subordinate legislation and statute law revision and a chapter on interpretation and on civil, criminal and local courts procedure. They then cover the legislation on contract, torts, social services, labour, domestic relations, land, natural resources, commerce and conclude with a

chapter on the criminal law. Public health is disposed of in half a page and town planning and the National Housing Corporation in a paragraph each.

"Land" understandably is given somewhat more spacious treatment. After briefly sketching the contents of the Land Ordinance, the authors discuss the question whether a right of occupancy granted under the ordinance is the same thing as a lease – a question from which even the Judicial Committee of the Privy Council has shied away; in the authors' view, it is arguable that a 'granted' right of occupancy approximates more to a licence than a lease. they then turn to a factor contributing to what they term the "erosion of the monolithic structure of the Land Ordinance", namely, the conversion into freehold of German grants of 'absolute ownership' under the Land Registration Ordinance. They conclude, perhaps questionably, that the possibility of creation of freehold, in selected areas of Tanganyika, by operation of this law, cut across the scheme and intention of the Land Ordinance and they express the view that it would have been preferable to preserve German titles in their existing form uniformly throughout Tanganyika without designating certain parts of the country where a 'contrary' system was to obtain. On the basis of this conclusion, it is hardly surprising that the authors make a rare departure from their impersonal resumé to express a wholly approving opinion of the independent Government's intention (at the time of writing) to have all freehold converted to leasehold. They reprint in full in an appendix the Government Paper No. 2 of 1962 containing these proposals. This appendix records that the proposals were enacted by a law which came into effect on the 1st July, 1963. This appendix also contains a resumé of another interesting law, again enacted after the authors deadline of the 1st April, 1963, entitled the Land (Settlement of Disputes) Act, 1963.

By way of criticism of the book two questions arise: firstly, whether the purpose of the book is a useful one for the general reader; and secondly, whether the authors have fulfilled their expressed purpose. As to the first, the volume of condensed law coupled with the authors' self-imposed limitation on inference, explanation, prognostication and even opinion, restricts the general reader's interest. By contrast with the text at large, the Preface where the authors have allowed themselves some latitude in expressing opinion, makes lively reading. As to the second line of criticism, the authors purpose has been well fulfilled: the form of the book is well arranged and the digests are clear and most painstakingly referenced. The book is well indexed and printed; it includes tables of statutes and cases, a bibliography and the Act declaring the constitution of the Republic of Tanganyika.

The wide scope of the book has necessitated a great concentration of weighty matter and consequently, it will serve more as a conspectus of available material rather than as a source of the material itself. But the skills of both the authors and publishers have combined to make the book serve this purpose admirably.

C. MACE.

AN INTRODUCTION TO THE HISTORY OF CENTRAL AFRICA, by A. J. Wills, *Oxford University Press*, 1964; pp. 386; maps; 25s.

This is a well balanced and refreshingly objective and readable introduction to the history of that region which comprised the Central African Federation until recently. Mr. Wills has provided very full Notes with references and a well selected bibliography and an index.

After giving a good outline of the early history of the area, so far as it is known, the slave trade, exploration, early missionaries, and the occupation against the political atmosphere of the times, he moves on to the evolution of the different administrative systems which evolved in the three territories in response to the forces which influenced them from overseas and locally. It is this part of the book which will mainly interest the readers of this *Journal*.

Southern Rhodesia attained responsible Government in 1923 and, under vigorous local European government, adopted a policy of "parallel development" between the European and African races. Legislation, such as the controversial Land Appointment Act, has since then been designed to promote this, and a policy of "direct rule" as opposed to "indirect rule" was adopted in African administration for historical reasons. But the development of local government in all areas of S. Rhodesia was also part of the parallel development policy and the author records the view that the policy of dircet rule as practised in the south "helped the chief to survive since his traditional and inherent powers, though greatly shorn, were not interfered with by compulsory performance of modern responsibilities. It also, perhaps, created conditions in which more genuine local government could emerge".

Mr. Wills is contrasting the administrative theories of the south with those of the two northern territories where, under the influence of Colonial Office tutelage, the policy of "indirect rule" had been adopted together with the doctrine of the paramountcy of African interests which profoundly influenced the course of administrative practice which he outlines. In the northern territories there was, at any rate in theory, no racial discrimination in the allocation of land, except in the vast areas of Reserve and Trust Land where African interests were over-riding and, in the Reserves of Northern Rhodesia, could even over-ride the interests of the territory as a whole. All this and much else of interest to local administration is necessarily only briefly touched upon and an exhaustive historical comparative study of the practice and results of the different local administration remains to be written. The nearest we have to it is to be found in the monumental works of Lord Hailey.

But this volume, which takes us to 1960, pretends to be no more than its title suggests and within these limits is a highly competent performance and a useful background to the history of this part of Africa.

R. S. HUDSON.

ESSAYS IN CONSTITUTIONAL LAW, by R. F. V. Heuston, Second Edition; *Stevens & Sons, London*, 1964; pp. xi and 204; 25s.

The interest of the average Englishman in the law is often a source of amusement to foreigners. While there are some whose interest lies in the sensation of the criminal trial, and others whose joy lies in the ancient forms and archaic language, there is still a large body of the public which is genuinely interested in the legal system and the administration of justice as a background to the political and economic life of our country. To these people, the general tenor and style of legal publications must be a disappointment. Lawyers are not noted for their literary style, and many textbooks suffer by having their contents obscured by weighty verbiage and pure tedium. The more lighthearted books often have little academic weight.

Here however is a small book to which none of these criticisms can be directed. Despite the rather forbidding title, Mr. Heuston's book should be a delight not only to the professional man but to any person genuinely interested

in the subject. His approach is at once scholarly yet entertaining while the touch, if light, is never superficial. It is a book which may be nibbled at from time to time, or devoured in its entirety during a train journey or an overnight stop. It is wholly digestible. The author does not set out to give a detailed examination of the British Constitution, but as the title suggests, selects a number of topics and seeks to illuminate them and explain them for the benefit of the student of the constitution.

The scope of the work is illustrated by the topics which have been chosen. They are sovereignty, the rule of law, the royal prerogative, parliamentary privilege, personal liberty and civil disorder. Many of these topics impinge upon the life of the ordinary citizen and most persons will find Mr. Heuston's explanations absorbing. The method which he has adopted is to look at these topics in the light of the cases decided in respect of them. In this second edition are to be found references to cases from the time of Lord Coke, and yet as topical as those of Dr. Soblen and Chandler. Not only does he deal with established theories and principles but deals also with such matters as the Ombudsman and the Lagos Conference. Mr. Heuston gives us not only the benefit of the decisions, but also in many cases the most revealing argument, which is generally omitted.

If there is one criticism to be made of this book it is the unfortunate lapse in the first chapter into the rather parochial style of the university common room. References to 'Oxford men' and half humourous references to Cambridge have probably amused generations of undergraduates, but can only irritate the adult reader. Once past the first chapter, however, the book is wholly readable, infinitely stimulating and very delightful.

I. G. McLEAN.

AID TO AFRICA by E. M. D. Little, *Pergamon Press, Oxford*, 1964; pp. 76; 7s. 6d.

Mr. Little has written an excellent pamphlet on aid, a subject whose importance has not so far been matched by the quality of what has been written on it.

Aid giving has proved to be both more difficult and less productive of immediate and spectacular development in the recipient countries than the donor countries at first expected. Part of the reason for this is the lack of real contact between the administrators of aid, who are particularly susceptible to political and commercial pressures from their own countries' and economists who lack practical experience and are by no means unanimous about developmental priorities. Mr. Little goes a long way towards resolving this problem at least in the context of Africa. He is an economist and a distinguished one; he has been closely involved in administration and for this book spent some time in Africa discussing the problems of aid on the spot with the administrators both of donor and recipient countries. Thus while emphasising proper economic priorities, Mr. Little's suggestions are of direct practical value to the administrator.

Mr. Little's pamphlet falls into three main parts: a consideration of the difficulties in the path of African development, a review of aid (particularly Western aid) as a whole and a critique of British aid in particular. Significantly the pamphlet begins with a chapter on the problems which will arise from population growth on the continent.

Mr. Little's most important point is that what Africa most needs at the moment is technical aid – both the teaching of the multitude of skills needed

to run a modern society and the services of men and women from the developed countries. The provision of capital is of less importance now because of the shortage of trained people able to use it effectively.

Of particular interest is the section on British aid. Several important suggestions are made for improving our financial aid giving, including less aid-tying, more aid for recurrent expenditure, the softening of the terms of our loans and more project aid. A review of the unsatisfactory legislative basis of our aid giving leads to the recommendation that a single government department should be responsible for both technical and financial aid. In the field of technical assistance, Mr. Little calls for greater efforts to stimulate the willingness of British people to serve abroad, more effective administration of our effort, better co-ordination between donors and a greater use of the project approach. Finally, conscious of the failure of the donors to examine adequately how their aid can best be adapted to the particular needs of African countries, Mr. Little wants a new development institute in this country where effective inter-disciplinary research can be carried out.

All this is stimulating stuff which should give thought to those concerned with or interested in aid. There are of course various difficulties in the way of implementing Mr. Little's suggestions of which perhaps the most important for Britain is the balance of payments. But basically the failure to make aid more effective, to persuade more people to serve abroad, to put development needs before export promotion stems from the weakness of the national will to help developing countries. Given the will, the difficulties, which are largely of a technical nature, can be overcome. Mr. Little informs us in his preface that this pamphlet arises out of a wider study of aid which will be published next year: on the evidence of this trailer, it will be well worth reading.

R. A. BROWNING.

THE AFRICAN PRESENCE IN WORLD AFFAIRS, by Dr. Arnold Rivkin, *The Free Press of Glencoe, New York*, 1964; *Collier-Macmillan, London*; pp. 304; 45s.; $5.95.

Those who know Dr. Rivkin are aware that it is only by constraint that he can be dull. In writing this book he has not been entirely unfettered. It is really two books, or the element of two books, bound together physically but without a compelling link between the economic analysis and the political conclusions. This is not to say that the association is wholly artificial. It could be there, but it is not convincingly developed.

In defining his theme, the author states that the work is an attempt to describe, analyse and interrelate the processes of political and economic change in Africa south of the Sahara and to relate the internal dynamics of the new states of Africa to their international behaviour. His hope is thus to evaluate the significance of the attitudes struck on the international stage by actors whose "home economics" ought to condition their performance. In the first sentence in Chapter One he pins his faith on the proposition that their international personality is a reflection of the problems of economic growth and a yearning for political stability. Some of the observed contradictions which make this hypothesis difficult to sustain are left unresolved at the end of the book. But it is nevertheless a valuable *tour d'horizon*, as in early 1963, of the development potential and capacity of the new African States and how such factors may affect their influence in world affairs.

In analysing the growth potential of Africa, Dr. Rivkin turns a shrewd eye on the mechanisms of economic planning and illustrates how the trend towards the one-party state and the *a priori* acceptance of certain aims of economic policy frustrate the most profitable deployment of resources and the fructifying power of private enterprise. Uniformity and conformity as unquestioned goals particularly hamper the growth of agricultural investment and emphasize the trend towards heavy social welfare expenditure which a more pragmatic approach would contain within the bounds of economic prudence.

In his examination of 'neutralism' as a political philosophy Dr. Rivkin is under no illusion. Those governments which accept aid from the West run the risk of being denounced as "neo-colonialist stooge governments" and the Casablanca bloc in proclaiming "neutralism" are clearly taking positive sides on the cold war issues. As he remarks "the all-allegiance-short-of-alignment posture appears neither impartial nor neutral to the other party in the dispute." He shows how the Monrovia group, in moderating their nationalist feelings and seeking economic growth to sustain political independence in the context of peaceful change and amicable international relations, has had the courage to look more closely to the long-term interest of their peoples. In his description of the problems of economic and social development facing the African states Dr. Rivkin is more successful than in relating these findings to the weight to be given to African probabilities in assessing the prospects for world peace. He was of course writing at a time when the sheer numerical power of new Africa in the United Nations had made its greatest impact. Whether this would lead to a greater influence for Africa in world affairs or the growth of the tendency to seek and reach adjustments of world tensions outside the United Nations by the major powers is not fully examined. But perhaps the conclusion could be drawn that the scramble to aid Africa, which succeeded the scramble to possess it, is also a passing phase and that a colder assessment of mutual advantage in political and economic terms is entering the aid relationship. If so, Dr. Rivkin's book is a good starting point for a re-appraisal.

W. A. C. MATHIESON.

OTHER BOOKS RECEIVED

GOVERNMENT AND POLITICS IN NORTHERN AFRICA, by I. William Zartman. *Methuen, London*, 1964; pp. 204; 21s.

The author is an Assistant Professor at S. Carolina University. After giving a general picture of the N. African States – Morocco, Nigeria, Tunisia, Libya, U.A.R., Sudan, Ethiopia and Somalia – the book aims to give a detached impartial account of the politics and personalities of these countries and to further informed understanding of their peoples and problems.

AGRARIAN DEVELOPMENT IN PRESENT ECONOMICS, by E. S. Clayton. *Pergamon Press, London and Macmillan Company, New York*, 1964; pp. 154; 21s.

The author is a lecturer in agricultural economics, Wye College, University of London. He outlines agrarian development in Kenya, considers the economics of present agricultural practice and the means of increasing productivity, and debates whether agrarian development should be fostered by government or left to private initiative.

A useful book to undergraduates reading agriculture and economics, to post graduates studying these problems in developing countries and of interest to administrative staff in these countries.

AFRICA, THE DYNAMICS OF CHANGE, edited by H. Passin and K. A. B. Jones-Quartey. *Ibadan University Press*, 1963; pp. 261; paperback, unpriced.

This is the record of a conference on representative government and national progress organised by the Congress for Cultural Freedom and the Department of Extra-Mural Studies, University College, Ibadan, in 1959. Despite the date this record will instruct students of the political and administrative problems of new independent territories in W. Africa.

AFRICA, SOUTH OF THE SAHARA, by G. W. Kingsnorth. *Cambridge University Press*, 1963; pp. 160; 8s. 6d.; $1.45.

This book aims to show the history of Africa south of the Sahara as a whole, how each part fits into the general pattern instead of being treated as an isolated unit. It is an introductory outline intended for use in secondary schools as a background to the Cambridge Overseas School Certificate syllabus on Tropical Africa.

PROFILES IN CRIME, by W. Clifford. *Government Printer, Lusaka*, 1964; pp. 65; unpriced.

This monograph is part of the research work done by officers of the Social Welfare Division of the Ministry of Housing and Social Development, N. Rhodesia. It records interviews gaining life histories of habitual offenders and gives some idea of their personalities and ways of thinking, with the object of gaining information to assist in determining treatment to prevent recidivism. Useful to those interested in this technique in social welfare work.

YOUNG AFRICA, by P. Larsen. *Phoenix House Ltd.*, 1964; pp. 148; 25s.

This book is written by a photographer journalist recording his impressions in print and in excellent photographs of a ten month journey from Dakar to Mombasa. It is a travel book by one sympathetic to the political and cultural changes taking place in all Africa.

RESTRICTIVE TRADING AGREEMENTS IN THE COMMON MARKET, by A. Campbell. *Stevens, London and Rothman, New Jersey*, 1964; pp. 228; 37s. 6d. or $6.50.

This book, with a forward by Lord Justice Diplock, is a comprehensive guide to legislation affecting the European Common Market arising from the Rome Treaty, and implemented by the Commission and Court of the E.E.C. Useful to all industrialists and legal advisers of countries who wish to trade in the Common Market.

ECONOMICS FOR DEVELOPMENT, by S. Enke. *Dobson Books Ltd., London*, 1964; pp. 616; 60s.

Professor of Economics at Duke University, the author tackles the problem how to apply modern economic theory to conditions of developing nations. His main subject headings are Environment for Development, Innovations and Development, Accumulation and Use of Capital, Labor and Development, Development through Trade and Prospects for Development. Of interest and use to all concerned in development planning, policy-makers, executives or academics.

A PHONETIC STUDY OF WEST AFRICAN LANGUAGES, by P. Ladefoged. *Cambridge University Press*, 1964; pp. 74; 18s.

This is the first of a series of projected monographs of the West African Languages Survey. Based on materials from sixty-one West African languages it makes the first contribution of broad scope in phonetic studies in Africa since Westermann and Ward's work in 1933. For the specialist.

AFRICA AND THE EUROPEAN COMMON MARKET, by Dr. Arnold Rivkin. *University of Denver*, 1964; pp. 61; $1.00.

This is the first monograph of an annual series being published by the Social Science Foundation and Department of International Relations of the University of Denver. Opening with a background to Africa after the 1963 Addis Ababa meeting, the relationship first of the Eighteen African Associates with the E.E.C. is discussed, then of the Non-Associated African States. Finally the question of an African Common Market is examined whether it should be alternative or supplementary to the E.C.M. Useful to students of African economic development and its relationship to the E.E.C.

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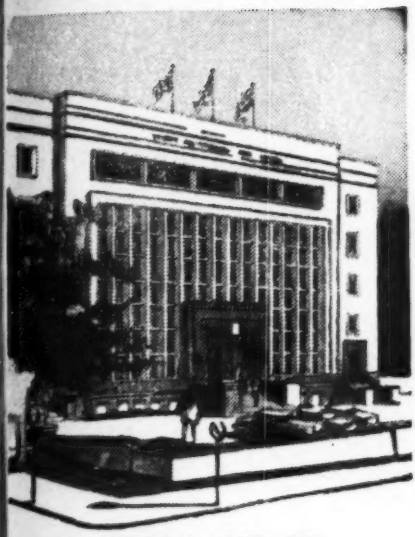

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